

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, March 17, 2015

Lebanon, Virginia

BOARD MEMBERS:

Bill Harris—Public Member

Donnie Ratliff—Coal Industry Representative

Donnie Rife— Public Member

Bruce Prather – Oil and Gas Industry Representative

APPEARANCES:

Rick Cooper—Director of the Division of Gas & Oil and
Principal Executive to the Staff of the Board

Paul Kugelman—Assistant Attorney General

Sarah Gilmer—Staff Member of the Division of Gas & Oil

Sally Ketron—Staff Member of the Division of Gas & Oil

C.J. Carter and Kenneth Lovelace – Escrow Agents, First Bank & Trust

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Item Number 1

Donnie Ratliff: Let’s call the meeting to order. And we will start with public comments. And we’ve got Kenneth Osborne.

Bill Harris: You want to introduce the Board?

Donnie Ratliff: Yeah, I’ll do that next.

Bill Harris: Okay.

Donnie Ratliff: Thank you, Bill. You should have sat beside me.

Rick Cooper: Mr. Osborne.

Kenneth Osborne: No. I didn’t... they signed me up. I didn’t want to speak to the Board.

Rick Cooper: Okay. Very good.

Kenneth Osborne: Already taken care of.

Donnie Rife: We’ll introduce the Board. I failed to do that before we started. Mr. Prather, do you want to start on that end please?

Bruce Prather: I’m Bruce Prather. I represent the oil and gas industry on the Board.

Bill Harris: I’m Bill Harris, a public member.

Donnie Rife: Donnie Rife, public member.

Donnie Ratliff: I’m Donald Ratliff. I represent coal. I work for Alpha Natural Resources.

Paul Kugelman: I’m Paul Kugelman. I represent the Board for the Attorney General’s office.

Item Number 2

Donnie Ratliff: And the next item on the agenda is we will hear from First Bank & Trust Company, our Escrow agent. You may proceed, gentlemen.

C. J. Carter: I guess we will quickly introduce ourselves. I’m C.J. Carter, at First Bank & Trust company.

Ken Lovelace: I’m Ken Lovelace, with First Bank & Trust.

Jack Phelps: I’m Jack C. Phelps, Jr., First Bank & Trust Company.

1 **C. J. Carter**: Okay. You have in front of you, our report for the fourth quarter, 2014. The one
2 with the yearly summary. I am just going to go quickly down the agenda here. We will start with
3 the fourth quarter summary of the escrow account. You can see our starting balance. Beginning
4 of the fourth quarter of 2014. The deposit, royalty and working income, the interested earned off
5 the investments, fees for administering this account, the distributions (of course you can see in
6 the fourth quarter, the distributions exceeded the royalty and working income by a large margin).
7 And you see the ending balance at the 2014 of 28,750,869.34. There were no adjustments for the
8 fourth quarter. The following page is the exact same summary, but for the entire year of 2014.
9 You can see the deposits for the year, a little over two million dollars, the interest earned on the
10 money market, on the CD... the CDs, the investments of almost eighty one thousand dollars.
11 You can see the fees that were deducted, and the distributions for the entire year of 2014, were
12 less than the deposits that came into the account. There were... there was a small adjustment.
13 The nature of these adjustments are described more thoroughly below, in the footnote. There was
14 a small payment that was received, in 2013, that was post.... that was actually posted in early
15 2014. And a few other minor adjustments. All these adjustments should have been explained in
16 the second quarter meeting in 2014. The following pages, they're outstanding checklist. I
17 certainly won't go through every single one of these. This is the same format as we have
18 presented in past meetings.

19 **Bill Harris**: Let me ask you just a quick question. It says, "Printed on the far right
20 column... what... for under 'Status'... what does that mean?"

21 **C. J. Carter**: Um, I believe it just means the checklist... literally printed... but, you know, I'll
22 have to get back ... I, I am not one hundred percent sure what that 'Status' means.

23 **Bill Harris**: I just happened to see that.

24 **C. J. Carter**: I think it just means that the check was printed. But I'm not one hundred percent
25 sure.

26 **Ken Lovelace**: Yeah, actually... what the 'Status' being printed... printed being that the check
27 has been delivered. The check is.... has been presented to the customer.

28 **Bill Harris**: Oh, Okay.

29 **Ken Lovelace**: And it has not been cashed. Or has not been turned into... you know to be turned
30 in. It's an outstanding check, basically.

31 **Bill Harris**: Okay. Okay. Thank you.

32 **C. J. Carter**: Okay. The next page... or for the checks that have been outstanding for five years.
33 The total balance there, a couple of common names, and one of those checks, the very last item,
34 the majority of that total amount, that totals a little over one thousand dollars. Okay the
35 following pages are the account details. So, the summaries that we just went over in the first

1 couple of pages, this is the sub-account level details. We can see the individual units, the account
2 numbers, the deposits coming in, interest earned for the... on the sub-account level. Distributions
3 and corrections. Next in the packet, is the unfunded units. Again, we have two pages here. The
4 next page, there is the Annual Distributions. This is simply a summary. And in previous years, of
5 the money coming into the account, through the royalty and working income, and the
6 distributions that were made. This is simply just for informational purposes. You can see in
7 2014, was the lowest net contribution, prior to 2012.

8 **Donnie Ratliff**: Mr. Carter, going back on the unfunded units. Is that just units that's been
9 permitted?

10 **Rick Cooper**: Just to let you know, we are going to report out on this at the end of the meeting.
11 But we are working hard on this, trying to close some of these accounts. Because you can see
12 that the dates on some of these are 2006, 2009, 2010. We are working on that internally, to try to
13 close some of these accounts. Some of these take hours and hours. You wouldn't believe that it
14 takes hours and hours of research to close... just to close these accounts. But as we move
15 forward, we will try to close and bring a couple of these in front of the Board every month and
16 try to close these out, once we investigate the reason they are unfunded.

17 **Donnie Ratliff**: Okay. I'm sorry.

18 **C. J. Carter**: That's fine. Okay. The next page is the investment of funds. So this is, as of, the
19 end of 2014, 12/31. You can see, at that time, there were about eight million, seven hundred and
20 forty-four thousand, seven hundred fifty-three dollars and forty-four cents. That is in the ICS
21 money market. Just to refresh, the ICS is a type of account that will divvy out FDIC insurance
22 coverage at the applicable limits through multiple partner banks so that we have all the funds
23 under the FDIC insured limits. This balance as of yesterday, is North of fourteen point seven
24 million. So, as the CDARS, the next subset here, First Bank & Trust Co. CDARS, CDs, as they
25 mature, they are rolling over into this ICS money market. The ICS money market is yielding 20
26 basis points, or zero point two percent. The main reason for doing this, is the new CDARS rate,
27 that we're getting is the same. Point two percent. So, in my opinion, it makes more sense to, as
28 the CDARS mature, roll over into the ICS money market, where you are earning the same rate,
29 but there is no penalty, if there were to be an early withdrawal. So, essentially, the ICS money
30 market is more liquid than these CDs, because there is no early withdrawal penalty and you are
31 earning the same rate of interest. And as of 12/31, there is a total of eighteen million, two
32 hundred and seventy million invested in the CDARS program. There was also two million
33 dollars that were... that are in the brokered, in the traded CDs. These CDs typically have a
34 higher rate of interest. And that's primarily due to being able to look at all the banks in the
35 country that are offering, and be able to select the highest rate. Whereas, the CDARS rate is a
36 rate that is set by First Bank & Trust Company. So, you can see the average yield. Coming down
37 here, the average yield on the ICS money market, as I discussed is 20 basis points. The weighted
38 average yield for the CDARS is actually, for 2014 is zero point two nine. But keep in mind,

1 every CDARS that renews, were to be placed in another CDARS, it would renew at point two
2 percent. And the weighted average yield for the traded, or DTC CDs, was zero point four six
3 percent. So, you are able to get substantially higher amount, by going out on the traded CD
4 market. Which was what we did last... I think in the October meeting. So, that's the basic
5 summary of funds. I do want to mention that there was a mistake made on my part, where I
6 purchased a brokerage CD for a bank... Santander Bank, that was actually covered in the
7 CDARS program. It was simply a mistake not catching it out the report. But I subsequently sold
8 it. And so we are... all CDs are insured. They are under the FDIC insured limit. But I did want to
9 make sure I pointed that out. So, unless there is further... unless I have different direction, I am
10 going to assume that anything maturing in the CDARS program, should roll over into the ICS
11 money market, at 20 basis points, unless there was an interest in pursuing the traded CDs, in
12 some amount.

13 **Bill Harris**: Could you tell us what you... looking into your crystal ball... how do you see the
14 market in the next, say, six months or... five months?

15 **C. J. Carter**: Well, there very well could be some interest rate volatility, as you have heard, the
16 Federal Reserve... they are contemplating... there's a lot of speculation on when they will begin
17 raising the short term interest rates. Of course that will affect some of these shorter-term CDs.
18 There are some expectations that could happen around June. But there is also expectations that
19 will happen, you know, later this year. Possibly pushed even to 2016, so I do think that it is
20 getting more likely that the fed funds rate, they will raise the rates. That certainly will have some
21 effect on the short-term CDs.

22 **Bill Harris**: Thank you.

23 **Donnie Ratliff**: Any other questions? Staff?

24 **Rick Cooper**: I believe Mr. Lovelace has some comments. I guess, on the discussion on some
25 W-9s he wanted to talk to the Board about.

26 **Donnie Ratliff**: Okay.

27 **Ken Lovelace**: Sure. I'd like to address the W-9, the requirement that First Bank & Trust have a
28 W-9 whenever distributions are made. It had been asked of me, when I first come on with the
29 company, which was last October. I'm the project manager for V.G.O.B. To come up with some
30 documentation that kind of backs up that requirement. I did find that documentation. And it's
31 actually on the W-9 form itself. So, in your packet, there is an excerpt from this form. And it's
32 that first paragraph. It basically says that being a company, or entity, that is distributing funds
33 and/or another form (a 1099, a required 1099) that we are required to have this document. A
34 signed document, W-9, from the actual person themselves. And what that says is, that the person
35 verifies that that's their Social Security Number. And it also verifies that they are not subject to
36 any withholding, back-up taxes. Without that, if we distribute the funds, and it happens to be the

1 wrong person, then we are liable. So, without this form, we would not want to distribute funds.
2 And that had been a question when I first came on, so I just wanted to address that. Any
3 questions?

4 **Donnie Ratliff**: No. Mr. Cooper could we put that on the website, to make it more convenient?

5 **Rick Cooper**: We can. We can place that... do you mean the W-9 form itself?

6 **Donnie Ratliff**: The W-9 form with an explanation that it's required by the bank.

7 **Rick Cooper**: I believe we can do that.

8 **Donnie Ratliff**: I just think it would make it more convenient for the citizens.

9 **Paul Kugelman**: Could we maybe just suggest that they put a link to the IRS website so we're
10 not... legally binding...you know... a link to that particular...

11 **Donnie Ratliff**: Yeah. Our attorney has a suggestion.

12 **Rick Cooper**: Go ahead.

13 **Paul Kugelman**: Just to make sure that we are giving folks the right form, and for some reason
14 the IRS doesn't change up on us... behind our backs.

15 **Rick Cooper**: Uh-huh.

16 **Paul Kugelman**: Maybe it would be appropriate to have a link to the IRS website, to that
17 particular form.

18 **Rick Cooper**: I think that would be good. And we can do that.

19 **Paul Kugelman**: Okay.

20 **Donnie Ratliff**: Anything else, gentlemen?

21 **C. J. Carter**: That's all we had.

22 **Donnie Ratliff**: We certainly appreciate you. Ya'll have done an outstanding job and kudos to all
23 of you. Thank you for being here today. Thank you.

24

25 **Item Number 3**

26 **Donnie Ratliff**: The next item on the docket is a petition from EQT Production Company, for
27 the disbursement of funds and authorization for direct payment on behalf of the know owners of

1 Tracts 2 and 4 in Well VC-702846. Docket number VGOB 93-0316-0343-03. Continued from
2 September 2014. All parties please step forward.

3 **Jim Kaiser**: Mr. Chairman, Jim Kaiser and Rita McGlothlin Barrett on behalf of EQT. We've
4 got a few of these items that we are going to continue today, actually, number 3 being one of
5 them. We swear, let's swear it in.

6 **Sarah Gilmer**: Ms. Barrett, do you swear and affirm that your testimony is the truth, the whole
7 truth, and nothing but the truth?

8 **Rita Barrett**: Yes.

9 [Inaudible]

10 **Mark Swartz**: Correct. And I think you have to publish that twenty years ahead. If I'm not
11 mistaken. [Inaudible] Well, and the other thing is, that if the reason that we give notice to people
12 is 45.361.19, which says that when you petition for a... when you petition for a hearing, you are
13 required, as the applicant, to mail notice, and we do that. So the first time a case is set on a
14 docket, there is the certified mail that you see all the time...you know, that goes out as a notice.
15 And if we have a hearing, if it's not cancelled because of weather, or something. If we actually
16 have a hearing, that person was on notice to show up for that hearing. And the theory is, that it's
17 in courts and in front of boards, if you are noticed to show up for a hearing, and you don't show
18 up for that hearing, you run the risk that something is going to happen at that hearing that you are
19 not going to know about or have control over. And one of those things could be a continuance.
20 But at least here, with the Board, when you continue cases, you do publish the dockets, so when
21 they are back on, they are published. The 361.19 only requires the applicant to publish, or to
22 provide notice of the initial hearing. Period. There is no requirement in the statute that imposes
23 any burden on the applicant to do anything, except notice that first hearing. There is, we have an
24 administrative code, which applies to this agency. And it requires (I'm going to give you some
25 copies of this stuff in a moment, if you want to look at it) and it generally requires that... it says
26 that "Parties..." (this is 2.2-4020 of the APA) "Parties to formal proceedings shall be given
27 reasonable notice of the time, place and nature of the hearing." So that kind of tracks 361.19.
28 This Board...and I think sometimes we lose track of this...but this Board actually has quite a few
29 regulations and rules of its own. And I made some copies. One of them you should be interested
30 in today. The first page of what I just handed you all, actually contains the portion of the APA
31 that I just read from: 2.2-4020 B, which is the parties to formal proceedings, and this this is a
32 formal proceeding.

33 **Paul Kugelman**: This is not a formal AP... you're saying this is a formal APA proceeding?
34 These board meetings?

35 **Mark Swartz**: It is a formal meeting under the APA.

1 **Paul Kugelman**: Okay.

2 **Mark Swartz**: And if you think it's something else, you can share that with us, perhaps
3 eventually. Then if you go to the second page, or the bottom of this page, you'll notice that there
4 is a reference to the administrative code of Virginia. And there is a portion that I have taken from
5 Chapter 160, the Virginia Gas and Oil Board Regulations which have been in place since the
6 early 90's. And specifically I'm directing your attention to 4: Virginia Administrative Code 25
7 160 40, which is a specific provision that this Board adopted many, many years ago, dealing with
8 notices of hearings. If you skip to the last page, of this three page document, you will see the
9 letter D, capital D. And I'm just going to read this into the record. This is your rule. "Notice of a
10 hearing, made in accordance with 45.1.361.19," which is what I started talking about... you
11 know it's the original notice, of the Code of Virginia, "or this section, shall be sufficient and no
12 additional notice is required to be made by the *applicant* upon a postponement or continuance of
13 the hearing." So these are the rules that been operating under for more than 20 years. These rules
14 were adopted by a regulatory committee, they were published, the A.G. had the opportunity to
15 review them, and in fact, as I recall, because I was on one of these committees, the A.G. actually
16 participated. We have been operating under this rule, you know, twenty-plus years, and the
17 notice of the next hearing, if there is a continuance or postponement, is of course when the Board
18 (and there is other rules on that)... when the Board publishes its docket. So, since I have a
19 number of cases today that have been continued from December, from January, February... you
20 know I have an interest, or my client has an interest in this argument that we are supposed to give
21 notice every time. Just to... the last thing I want to share with you is... we have a couple of...
22 CNX has a couple of cases on today's docket. One of them is 140 page PDF that you have. Most
23 of that is a list of people that we notified when we first set this hearing, under 45.361.19. One of
24 the reasons, in addition to the fact that it is procedurally okay to do this, to notice people for the
25 first hearing, and then the ball's in their court, to make sure that they are aware of what's going
26 on. But one of the reasons why this rule was implemented by this board, (there's no question in
27 my mind) is because it would cost thousands and thousands of dollars of postage to continually
28 re-notice people, who never show up. They are entitled to their notice the first time around. If
29 they show up, and it was continued, they will know because they were sitting there and they
30 heard about it. If they chose not to come, then they need to either inform themselves of what
31 happened... it is not hard to do that. The minutes of every hearing of this Board are published on
32 your website. They come up pretty quickly. They are up before the next scheduled hearing and
33 there are notes on those agenda from the last meeting that tell you what happened. So, it's very
34 easy for people who chose not to come to inform themselves by going to your website to look at
35 the paper. So, I could not be more certain that we are not, as applicants, required to do anything
36 more than notice it the first time around. And that the subsequent notices, are publication notices
37 from the Board, and that... you know, Mr. Kaiser's hearing today is properly before you from a
38 notice standpoint. (Assuming he mailed under 361.19 in the beginning.) And so I don't have to
39 go over this every time one of my cases is called, and certainly we have followed the statute and
40 this Board's regulations. So, I would push back very strongly against some assertion that we

1 have to mail this every time we have a snow storm and something gets cancelled, every time
2 there is a continuance for some reason... we do not have to do that and there is a specific rule
3 that says we don't.

4 **Donnie Rife**: Do you have a list of email notifications? Do you have a list of people that you are
5 notifying with a list of emails? I mean...

6 **Mark Swartz**: We don't send emails. We send mail. Certified mail with return receipt requested.
7 And we have in the applications that you have, there's the certificates with regard to mailing, the
8 signed sheets, the tracking, and when they don't sign... and we have to file that with you all, in
9 advance of the hearing. So, yes, we keep track of what we have done to comply with 361.19. We
10 file it with the Board. We have done that for many, many years. And we have done that with
11 regard to the hearings today. Absolutely.

12 **Donnie Rife**: I know twenty years ago, emailing wasn't probably a very popular thing, but today
13 it's getting more and more prevalent. And if you are expecting people to be able to go to the
14 website to get the updated information, then I am going to assume that you think they have got
15 an email list.

16 **Mark Swartz**: Uh, well, we can't email people the notice because the statute doesn't allow us to
17 do that.

18 **Donnie Rife**: I understand. I understand. You got to do it certified mail to make sure everything
19 stays in compliance, but it wouldn't hurt to have an email reminder.

20 **Mark Swartz**: I understand. I don't... we do not email because we can't come in here and say a
21 board regulation... I mean it's certainly something you all could take up but...

22 **Donnie Rife**: Yeah.

23 **Mark Swartz**: But we have to comply with the statute and your regulations. And none of them
24 contemplate that we can use email.

25 **Donnie Rife**: Right, well... the thing about it is... as long as you comply with the statutes and
26 regulations for the certified mail, that's fine. But I think that a email reminder probably wouldn't
27 be a bad idea, even though it really carries no weight. It has nothing... it's just a friendly
28 reminder. Uh, because twenty years later, if you still got... if everybody that's a... has a
29 complaint... it's easy to forget this stuff sometimes. And just....

30 **Mark Swartz**: The only comment I would make with regard to email... we can't go to the record
31 when we get people's email addresses. I mean... email addresses are not readily available. I
32 suppose some of our people that we are in contact with email us. I think they do, okay? But the
33 number of people that we don't have email addresses for, would far exceed the folks that we

1 might, through happenstance, have an email address to. So it would reach a very small number of
2 people if we did that.

3 **Donnie Rife**: Okay.

4 **Mark Swartz**: Not saying it's a waste of time, but I'm just saying we don't really have that data
5 readily available for most of the people that we interact with.

6 **Donnie Ratliff**: Do you have anything to add, Mr. Kaiser?

7 **Jim Kaiser**: No, I concur with his argument and I think that with the regulation that he read into
8 the record, it's pretty clear what the applicant's obligation is. And that is to comply the first time
9 around with the statutory requirements of 361.19.

10 **Donnie Ratliff**: Thank you. The chair is satisfied. Proceed Mr. Kaiser.

11 **Jim Kaiser**: Mr. Ratliff, we are going to ask that if you want to go ahead....you've already called
12 Item Number 3, so I'll ask Ms. Barrett...Ms. Barrett, we are going to request that that item be
13 continued to the May docket.

14 **Rita Barrett**: Uh, yes, we had some....we have some additional research that we need to do on
15 this well. On some parties... it looks like some of the parties on the exhibits....their interests
16 were reversed. And we need to revise those exhibits and that was just discovered yesterday so...

17 **Donnie Ratliff**: Okay and you have a couple more...

18 **Jim Kaiser**: Mr. Chairman and also if you would call Item number 4 and Item 7, we are also
19 going to ask that those two be continued to the May docket.

20 **Donnie Ratliff**: Okay we've already called Item 4, 5 is a petition from EQT Production
21 Company, for disbursement of funds and authorization for direct payment on behalf of the
22 known owners in Tracts 1, 2, 4 and 5 in Well VC-536070 in the Castlewood District of Russell
23 County. Docket Number VGOB 04-0921-1337-08.

24 **Bill Harris**: Excuse me, Mr. Chairman. I think there was 3, 4 and 7. And I think you said Item
25 Number 5. So are you reading....

26 **Donnie Ratliff**: I read 5.

27 **Paul Kugelman**: He's calling 5. He didn't take action on 7, I don't think.

28 **Jim Kaiser**: Did you call 4? I don't think he called 4 did he?

29 **Donnie Ratliff**: I didn't call 4.

30 **Jim Kaiser**: If you will call 4 and 7, we will continue those and go back to 5.

1 **Item Number 4**

2 **Donnie Ratliff**: Okay Item 4 is a petition from EQT Production Company for disbursement
3 authorization, direct payment on behalf of the known owners of Tracts 1, 2, 5, 6, 8, 9, 10, 11, 12
4 and 13 in well number VC-504482. Docket Number VGOB 01-0619-0899-02. Continued from
5 October. We will continue that until May.

6
7 **Item Number 7**

8 **Donnie Ratliff**: Item number 7 is a petition from EQT Production Company, for the
9 disbursement of funds and authorization to direct payment on behalf of the known owners on
10 Tracts 2, 4, 5, 6, 7, 8 and 9, in Well VC-703655. Docket Number VGOB 97-0520-0586-02. And
11 that will be continued to the May docket.

12 **Rick Cooper**: Mr. Chairman?

13 **Donnie Ratliff**: Yes?

14 **Rick Cooper**: I'd like to point out here, in the event that Mr. Kaiser and Mrs. Barrett are not here
15 at the end of the hearing, that we are moving that hearing up to May 26th. In May, it will be the
16 Tuesday after Memorial Day. So, we are moving the hearing date up one week in May. I wanted
17 you to be aware of that.

18 **Rita Barrett**: Thank you.

19 **Donnie Ratliff**: Okay I need to recall 5?

20 **Bill Harris**: Yes, sir.
21

22 **Item Number 5**

23 **Donnie Ratliff**: So we will now hear Item 5. A petition from EQT Production Company, for
24 disbursement of funds and authorization for direct payment on behalf of all known owners in
25 Tracts 1, 2, 4 and 5 in Well VC-536070 in Castlewood District, Russell County. Docket Number
26 VGOB 04-0921-1337-08. All parties interested, come forward.

27 **Jim Kaiser**: Mr. Chairman, Jim Kaiser and Rita McGlothlin Barrett on behalf of EQT. Ms.
28 McGlothlin, is this a disbursement request?

29 **Rita Barrett**: It is.

30 **Jim Kaiser**: Have all parties been notified, as required by the statute?

1 **Rita Barrett**: They have.

2 **Jim Kaiser**: And what unit does this affect?

3 **Rita Barrett**: This is Unit VC-536070.

4 **Jim Kaiser**: And what tracts in the unit are we disbursing from?

5 **Rita Barrett**: Tracts 1, 2, 4 and 5.

6 **Jim Kaiser**: Is this a partial or full disbursement?

7 **Rita Barrett**: It's a partial.

8 **Jim Kaiser**: And the reason for the disbursement?

9 **Rita Barrett**: We have a letter from Range Resources, dated January 14, 2014, wherein they
10 relinquish their claim to the coal bed methane royalty.

11 **Jim Kaiser**: Now have all figures been reconciled between the escrow agent and EQT?

12 **Rita Barrett**: They have, as of August 14, 2014.

13 **Jim Kaiser**: And should the Board look to the next to last column to the right in our Table 1? To
14 our application to find the percentage to be used for purposes of disbursement?

15 **Rita Barrett**: Yes.

16 **Jim Kaiser**: And would you agree the Schedule 1 is to who should receive disbursements and to
17 what percentage?

18 **Rita Barrett**: Yes.

19 **Jim Kaiser**: And have you provided the Board with Exhibits E and EE to reflect the facts of this
20 unit, as of this disbursement?

21 **Rita Barrett**: Yes.

22 **Jim Kaiser**: And would you ask that any Board order, state that any royalties due the parties
23 name in this petition be paid directly to them, going forward?

24 **Rita Barrett**: Yes.

25 **Jim Kaiser**: Nothing further from this witness at this time, Mr. Chairman.

26 **Donnie Ratliff**: Questions from the Board? We act on a motion, gentlemen.

27 **Donnie Rife**: Motion made, Mr. Chairman, for approval.

1 **Bill Harris**: Yes, I'll second that motion for approval.

2 **Donnie Ratliff**: Any discussion? All in favor, say Aye.

3 **Board**: Aye.

4 **Donnie Ratliff**: I'll abstain.

5

6

Item Number 6

7 **Donnie Ratliff**: Next, will be Item 6. A petition from EQT Production Company, for
8 disbursement of funds and authorization for direct payment on behalf of the known owners as to
9 Tracts 2 and 3 in Well VC-502974. Docket Number VGOB 05-0419-1437-01. It was continued
10 from September and then again from November. Parties may proceed.

11 **Jim Kaiser**: Again, this is a disbursement request, on behalf of the parties named in the petition?

12 **Rita Barrett**: It is.

13 **Jim Kaiser**: And have all parties been notified, as required by the statute?

14 **Rita Barrett**: They have.

15 **Jim Kaiser**: What unit does this affect?

16 **Rita Barrett**: This is VC-502974.

17 **Jim Kaiser**: And what tracts are we disbursing from?

18 **Rita Barrett**: Tracts 2 and 3.

19 **Jim Kaiser**: Is this a partial or full disbursement?

20 **Rita Barrett**: This is a full disbursement.

21 **Jim Kaiser**: And does this close out the unit?

22 **Rita Barrett**: Yes.

23 **Jim Kaiser**: Good. And the reason for the disbursement?

24 **Rita Barrett**: Uh, we have a letter dated March 21, 2014, wherein Range Resources relinquishes
25 its claim to the coal bed methane royalties.

26 **Jim Kaiser**: And have all figures been reconciled between the escrow agent and EQT?

27 **Rita Barrett**: Yes, as of August 14, 2014.

1 **Jim Kaiser**: And again, would you direct the Board to the next to last column of our Schedule 1,
2 or Table 1, next to the last column to the right. Percent of escrowed funds to be disbursed to
3 direct them as to what percentage to disburse?

4 **Rita Barrett**: Yes.

5 **Jim Kaiser**: And would you also refer them to Table 1, as to who should receive the
6 disbursement and at what percentage?

7 **Rita Barrett**: Yes.

8 **Jim Kaiser**: And have we provided the Board with Exhibits E and EE, to reflect the current facts
9 of this unit?

10 **Rita Barrett**: Uh, yes.

11 **Jim Kaiser**: And would you ask that the order include language directing the royalties to be
12 paid...in the future be paid to the parties named in the petition?

13 **Rita Barrett**: Yes.

14 **Jim Kaiser**: Nothing further of this witness, at this time, Mr. Chairman.

15 **Donnie Ratliff**: Questions from the Board? We act on a motion, gentlemen.

16 **Donnie Rife**: Motion made, Mr. Chairman...

17 **Rick Cooper**: I have a.... Mr. Chairman, can I ask a question?

18 **Donnie Rife**: Go ahead. Sure.

19 **Rick Cooper**: So, I believe the reason this was continued is that you removed some people off of
20 that, so is the... is it still closed? You removed people off of this... the reason it's been
21 postponed... you moved people off of that. You still have people on the E.

22 **Rita Barrett**: I don't think so. I think the reason that... there were some sales, I do know.
23 I...I...that may have been a W-9 issue.

24 **Sarah Gilmer**: It was.

25 **Rick Cooper**: It was a W-9 issue. You are correct.

26 **Rita Barrett**: So we got W-9s on everybody and now we can close the account.

27 **Rick Cooper**: No, we did not get W-9s on everyone.

28 **Rita Barrett**: We did not?

1 **Rick Cooper**: We did not. And they actually revised the exhibits to depict that. Correct?

2 **Sarah Gilmer**: That is correct.

3 **Rick Cooper**: So there are still outstanding people that we did not get W-9s from.

4 **Rita Barrett**: Okay well then I'll change my testimony that this is a partial disbursement.

5 **Rick Cooper**: That is correct.

6 **Rita Barrett**: I apologize. We don't have an E in here.

7 **Rick Cooper**: Okay.

8 **Bill Harris**: I'm a little confused. Who do the W-9s go to? Don't they... the bank has to see
9 those.

10 **Rick Cooper**: So the way this process works, is that the operator furnishes our...First Bank &
11 Trust, the W-9s. And so, we try.... moving forward we're trying to do a little better. We verify
12 that W-9s have been filed before this is put on the docket. But these have been continued several
13 months before we got that process in place. So the W-9s have not been established for all these
14 people, and they have revised the dockets to take these people off so they can move a partial
15 disbursement. But the item is still open until they get W-9s for the remaining individuals.

16 **Bill Harris**: So we are asked to disburse money to people we have W-9s for ...

17 **Rita Barrett**: Yes it will be partial....

18 **Bill Harris**: exclude from that list so... when... will we have an updated list or what's...

19 **Rick Cooper**: Well, they have updated their data in the petition that you have. So the
20 outstanding people have been removed. They are on the EE. So sometime in the future, they will
21 come back and disburse those people to close that unit out.

22 **Bill Harris**: Okay.

23 **Donnie Ratliff**: Thank you. Any other questions? [None] We act on a motion.

24 **Bill Harris**: I think you made a motion...

25 **Donnie Rife**: Motion made for approval on the amended.

26 **Bill Harris**: And I'll second that.

27 **Donnie Ratliff**: Any discussion? All in favor?

28 **Board**: Aye.

1 **Donnie Ratliff**: Any opposed? I'll abstain. That was 8 right?

2 **Board**: That was 6.

3 **Jim Kaiser**: We are going to 8 next.

4

5 **Item Number 8**

6 **Donnie Rife**: Item number 8 is a petition from EQT Production Company, for the disbursement
7 of funds and authorization for direct payment on behalf of all known owners as to Tracts 2, 3, 4
8 and 5 in Well VC-537244. Docket Number VGOB 07-1218-2101-01. All parties wishing to
9 speak please come forward.

10 **Jim Kaiser**: Ms. Barrett, again, is this a disbursement request made on behalf of the parties
11 named in the petition by EQT?

12 **Rita Barrett**: Yes.

13 **Jim Kaiser**: Have all parties been notified, as required by statute?

14 **Rita Barrett**: Yes.

15 **Jim Kaiser**: What unit does this disbursement affect?

16 **Rita Barrett**: This is Unit VC-537244.

17 **Jim Kaiser**: And what tracts?

18 **Rita Barrett**: Tracts 2, 3, 4, and 5.

19 **Jim Kaiser**: And is this a partial or full disbursement?

20 **Rita Barrett**: This is a partial?

21 **Jim Kaiser**: Reason for the disbursement?

22 **Rita Barrett**: We have a letter from Range Resources, that's dated March 21, 2014,
23 relinquishing their claim to the coal bed methane royalties.

24 **Jim Kaiser**: And have all the figures been reconciled between the escrow agent and EQT?

25 **Rita Barrett**: Yes, as of June 13, 2014.

26 **Jim Kaiser**: Again, for the percentage of funds to be disbursed, would you direct the Board to
27 the next to last column on the right of our Table 1?

1 **Rita Barrett**: Yes.

2 **Jim Kaiser**: And you'd also direct them to Table 1 for who should receive the disbursements?

3 **Rita Barrett**: Yes.

4 **Jim Kaiser**: And have we provided the Board with Exhibit E and EE to reflect the facts of this
5 unit at this point in time?

6 **Rita Barrett**: Yes.

7 **Jim Kaiser**: And would you ask that any order by the Board direct that any royalties due these
8 folks be paid directly going forward?

9 **Rita Barrett**: Yes.

10 **Jim Kaiser**: Nothing further of this witness at this time, Mr. Chairman.

11 **Donnie Ratliff**: Any questions from the Board? Staff have anything?

12 **Rick Cooper**: No.

13 **Donnie Ratliff**: We act on a motion.

14 **Donnie Rife**: Motion made for approval, Mr. Chairman.

15 **Donnie Ratliff**: We have a motion. Do we have a second?

16 **Bill Harris**: I'll second.

17 **Donnie Ratliff**: Mr. Harris seconds. Any discussion? [None] All those in favor...

18 **Board**: Aye.

19 **Donnie Ratliff**: Those opposed... I'll abstain.

20

21 **Item Number 9**

22 **Donnie Ratliff**: Item number 9. A petition from EQT Production Company, for disbursement
23 and authorization for direct payment on behalf of all known owners in Tract 4 in Well PC-313
24 (that's also known as VC-751313). Docket number VGOB 93-0019-0309-06. It was continued
25 from October and again in November. All parties wishing to speak please come forward.

26 **Jim Kaiser**: Mr. Chairman, again this is Jim Kaiser and Rita McGlothlin Barrett. Rita, again,
27 this is a disbursement request filed on behalf of the parties by EQT.

1 **Rita Barrett**: Yes, sir.

2 **Jim Kaiser**: Have all those parties been notified, as required by statute?

3 **Rita Barrett**: They have.

4 **Jim Kaiser**: And what unit does this disbursement affect?

5 **Rita Barrett**: This is unit PC-313.

6 **Jim Kaiser**: And what tracts?

7 **Rita Barrett**: Tracts.... Tract 4.

8 **Jim Kaiser**: And the reason? Is this a partial or full disbursement?

9 **Rita Barrett**: This is a partial.

10 **Jim Kaiser**: And the reason for disbursement?

11 **Rita Barrett**: Again, we have a letter dated March 21, 2014, wherein Range Resources
12 relinquishes its claim to coal bed methane royalty.

13 **Jim Kaiser**: And have the figures been reconciled between the escrow agent and EQT?

14 **Rita Barrett**: Yes. And I guess we need some explanation on this one. Yesterday afternoon, I
15 emailed Mr. Cooper, Mr. Lambert and Sarah a spreadsheet on this one. You guys will recall at
16 the last hearing, our disbursement... I'm sorry, our reconciliation was only up until September
17 12, 2012. I continued this well to get a little more information. The reason for that is we were
18 waiting on a disbursement that had occurred in 2012 that did not done until September 18 of last
19 year. And once that got recorded, while we were waiting on that to be recorded and disbursed
20 from the bank, EQT was told to put this money in internal escrow, so that they didn't continue
21 paying into the escrow account for this Marshall Johnson. Anyway, yesterday afternoon when I
22 emailed the spreadsheet to D.G.O. and there is.... I think it's That spreadsheet has a
23 reconciliation and there is a... \$564.06 on that spreadsheet. So it was reconciled as of yesterday.

24 **Bill Harris**: Excuse me. I'm not sure what this all means now, so... going forward, that
25 reconciliation does what to the... to what we have in front of us now?

26 **Rita Barrett**: It's... it's... if Mr. Cooper could probably email you guys that spreadsheet that I
27 sent yesterday? And it is current. We are good on it.

28 **Bill Harris**: So you are saying that the total now... I'm saying...

1 **Rita Barrett**: The total you see is... looks like it's \$16,082.68, after that disbursement. And
2 since this disbursement on September 18, 2004, there's been an additional \$500.06 paid into that
3 account.

4 **Bill Harris**: Paid in. Okay.

5 **Rita Barrett**: I'm sorry 2014. Yeah. I just wanted to explain that, because this one is a little bit
6 confusing.

7 **Donnie Rife**: You all squared away with that?

8 **Rick Cooper**: We have had reconciliation, so we are good with that.

9 **Donnie Ratliff**: Okay. Thank you. Anything else, Mr. Kaiser?

10 **Jim Kaiser**: Uh... let's see. Where were we? Yeah have the figures been reconciled? And you
11 were saying yes, as of...

12 **Rita Barrett**: Yesterday.

13 **Jim Kaiser**: Yesterday. Okay. And again, we direct the Board to the percentage of escrowed
14 funds to be disbursed in our Table 1 for their purposes of disbursement.

15 **Rita Barrett**: Yes.

16 **Jim Kaiser**: And as to who should receive those disbursements.

17 **Rita Barrett**: Yes.

18 **Jim Kaiser**: And we've provided the Board with an Exhibit E and EE to reflect the current facts
19 of this unit.

20 **Rita Barrett**: Yes.

21 **Jim Kaiser**: And we'd ask that any board order direct the royalties to be paid to these parties
22 directly, going forward?

23 **Rita Barrett**: Yes.

24 **Jim Kaiser**: Nothing further at this time, Mr. Chairman.

25 **Donnie Ratliff**: Any questions from the staff? From the Board? [None] Staff have any
26 comments?

27 **Rick Cooper**: No we do not.

28 **Donnie Ratliff**: Do I have a motion?

1 **Donnie Rife**: Motion made for approval, Mr. Chairman.

2 **Bill Harris**: I'll second that.

3 **Donnie Ratliff**: All those in favor, say 'Aye'.

4 **Board**: Aye.

5 **Donnie Ratliff**: Those opposed? I'll abstain. Is that all you have?

6 **Jim Kaiser**: Mr. Ratliff, if I may. I have one item that I represent Range on and Mr. Swartz has
7 graciously...if it's okay with the Board...he said it's okay with him to go ahead and do that one
8 now, since he's got most of the rest of the docket. That would be Item Number 26 on the docket.

9

10 **Item Number 26**

11 **Donnie Ratliff**: We will call Item Number 26. A petition from Range Resources-Pine Mountain,
12 Inc., for Modification of the Nora Coalbed Methane Gas Field Rules, to allow one additional
13 coalbed gas well be drilled within each of the 58.77 acre units. In Nora. Docket number VGOB
14 89-0126-0009-82. All parties interested, please come forward.

15 **Jim Kaiser**: Mr. Chairman. Jim Kaiser, Phil Horn, and Gus Janson on behalf of Range
16 Resources. We ask that they be sworn at this time.

17 **Sarah Gilmer**: Mr. Horn, do you swear and affirm that your testimony is the truth, the whole
18 truth, and nothing but the truth?

19 **Phil Horn**: I do.

20 **Sarah Gilmer**: Mr. Janson, do you swear and affirm that your testimony is the truth, the whole
21 truth, and nothing but the truth?

22 **Gus Janson**: I do.

23 **Donnie Ratliff**: You may proceed.

24 **Jim Kaiser**: Mr. Horn if you would state your name, for the record, and who you are employed
25 by.

26 **Phil Horn**: My name is Phil Horn. I am Land Manager for Range Resources-Pine Mountain, Inc.

27 **Jim Kaiser**: And this is an application for increased density drilling, which means an additional
28 coalbed methane well, within each of these 16 units?

29 **Phil Horn**: That's correct.

1 **Jim Kaiser**: And all 16 of these units are voluntary units?

2 **Phil Horn**: That's correct.

3 **Jim Kaiser**: So none of them were force-pooled?

4 **Phil Horn**: That's correct.

5 **Jim Kaiser**: Okay so we don't have a question as to whether or not somebody is going to receive
6 an election, correct?

7 **Phil Horn**: That's correct.

8 **Jim Kaiser**: Um... each of these parties has been notified twice?

9 **Phil Horn**: That's correct.

10 **Jim Kaiser**: And we've submitted an affidavit of mailing?

11 **Phil Horn**: Yes, we have.

12 **Jim Kaiser**: Nothing further of this witness, at this time, Mr. Chairman.

13 **Donnie Ratliff**: Any questions for Mr. Horn?

14 **Jim Kaiser**: Mr. Janson, if you could state your name, and who you are employed by and what
15 capacity?

16 **Gus Janson**: My name is Gus Janson and I'm employed by Range Resources-Pine Mountain,
17 Inc. I work as the Manager of Geology.

18 **Jim Kaiser**: And you have prepared a package of information that you distributed to the Board
19 for the purposes of your testimony today?

20 **Gus Janson**: I have.

21 **Jim Kaiser**: Could you just go through that information for the Board at this time?

22 **Gus Janson**: Certainly. The information that I have passed out to the Board is titled Exhibit K
23 and this will also be uploaded to the D.M.M.E. website. This is standard-type of information that
24 we've provided in the past for CBM infields. We are requesting that an increased density. Pages
25 1 and 2 are simply a regeneration of that information that we provided in the application process
26 to the Board, also. Identifying the units involved in the request we have today. Page 3 is sort of a
27 zoomed-out view of Dickenson County and the Nora Field. You will see in gray, the units that
28 were previously approved for increased density by the Board. And you have the units in green
29 are the units here today we are requesting for an increased density... for the second well in these
30 units. Then on page 4, you are looking at the same view, but I've added this is a little red dot

1 over top of the previously approved units. And those indicate where infield...or increased
2 density wells have been drilled to-date. So again, this is a process that has been going on for
3 several years now and this just sort of gives you an update of what's going on. I want to point out
4 that there have not been many increased density wells drilled by Range or EQT, in the Nora
5 Field, since 2010. Range did re-institute this program this past June of 2014, as part of our
6 acquisition of the rest of the field from EQT. We have drilled wells near the end of 2014. Some
7 more increased density wells. And we are here today, requesting more to continue our
8 development throughout the field.

9 **Jim Kaiser**: So actually, you have drilled wells since 2014. You just don't have the data yet, that
10 you can reflect in this Board.

11 **Gus Janson**: Right.

12 **Jim Kaiser**: But you did drill some at the end of 2014.

13 **Gus Janson**: Correct.

14 **Jim Kaiser**: Okay.

15 **Gus Janson**: And moving on to pages 5 and 6, you know, zooming back in to these specific
16 units we are requesting the increased density today on. And you will be able to see which units
17 already have at least one well in the units already. I think all of them except for a couple, have
18 not have any wells drilled in them yet, but we intend to move forward with our development
19 plan. And it will be... at least those two wells will get drilled in the near future. And you can also
20 see in some of the.... all 7 wells have been previously approved for increased density where
21 there are two wells already in those wells. And again, this is just a demonstration that this
22 process has been going on. Page 7 is a production graph of... sort of a combined effort of all the
23 wells, including both the original well within the unit and the increased density well. The blue
24 line at the base of the graph shows the first well that was drilled in the unit and then you can look
25 back into 2006 when the increased density wells started in the Nora Field. And you can see, as
26 we drilled those wells, as that production had increased up to about that time frame of 2010,
27 when the last wells were drilled. And now we are back, sort of on a decline there - similar to the
28 first well. And again, this represents we are achieving our intended goal, as to produce additional
29 resource out of these units as we build the second wells. You have summarized some of the
30 benefits that we see from the increased density that we've talked about in the past. Again, it
31 increases the fracture network, promoting the gas flow in these low pressure environment. Again,
32 we've talked about several times in the past, how the CBMs are in a very low pressure
33 environment. You need to lower that pressure within the reservoir to get the gas to flow. You
34 also need to de-water some of the coal seams so you can get the gas to flow off of those. And the
35 increased density well are benefits to all that, to increase the recovery factor within the reservoir.
36 And we also can achieve this production faster and more economical means. But here we are not
37 seeing any real significant impact to the first well. Again, you can see these two curves are

1 declining very similar to each other. And that's a cumulative production between the two wells,
2 represented in these units. This production represents approximately 200 wells that have been
3 done in the Nora Field over the past, you know, 8 or 9 or 10 years [inaudible] since 2006. Exhibit
4 K is a summary of the infield drilling. Again, this is a benefit for the working interest owners, the
5 royalty owners and the state of all will likely benefit from the increased maximizing of
6 production. It will promote conservation of the gas resource to prevent waste by effectively
7 extracting the resource. Another big benefit is it allows for the shared facilities, such as roads,
8 pipelines, and also helps to minimize the environmental impact. And again, we have no
9 correlative rights issues with any of these proposed units. The final few pages – 9 and 10 – are
10 informational only, for the Board requests in the past. This gives you a topographic
11 representation along with any D.M.L.R. permits or abandoned mine works that may be impacted
12 by the proposed well drilling. Page 9, there were no D.M.L.R. permits in the area. On page 10,
13 we just barely clip into a small surface area associated with [inaudible] permit number 1201948.
14 Then we also have some impact to an abandoned deep mine area in the Upper Banner Seam.

15 **Donnie Ratliff**: Do you know what mine that was?

16 **Gus Janson**: Pardon?

17 **Donnie Ratliff**: Do you know what mine that was?

18 **Gus Janson**: I do not. I don't have the name with me. I don't remember specifically the name of
19 the mine. It's been abandoned for several years now. We would just be penetrating it with our
20 surface casing of these wells.

21 **Donnie Ratliff**: Okay. Thank you.

22 **Bruce Prather**: I have a question, Mr. Chairman.

23 **Donnie Ratliff**: Mr. Prather.

24 **Bruce Prather**: Gus, on this decline curve you got here. Why is the decline curve different on
25 your second well, than it is on the total of the... In other words, why is the decline curve the
26 same as the blue on these... on this area where you are not... you know, you have no wells to
27 actually establish that curve.

28 **Gus Janson**: Oh, are you just talking about the being... the slope just being slightly different?

29 **Bruce Prather**: Yeah, the slope of this curve versus this curve.

30 **Gus Janson**: Yeah, I think that's just the function of your... the first well probably is getting
31 more of the resource than the second well... overall. The first well is going to get.... You have
32 one... you have a history of time with that one also. And then once you do the increased density
33 wells, they will come more production a little faster, but they will also probably decline a little

1 bit faster, also. Because you've already recovered some of the resource from the interference
2 between the two areas.

3 **Bruce Prather**: The only reason I ask that question is because there is no wells drilled on past
4 that one point, there. And so it would appear to me, unless there is some reason for it, the curve
5 ought to be the same as the one on the blue down below. That's the reason I'm asking.

6 **Gus Janson**: Yeah, I think they are very similar slopes to those lines. I think it's fairly similar....

7 **Bruce Prather**: Okay.

8 **Gus Janson**: Result that we are seeing that we are seeing from the increased density wells.

9 **Bruce Prather**: Okay.

10 **Gus Janson**: So, just in summary, I guess Range views the infields as a technically sound, and
11 reasonable method for seeking the resource development [inaudible] program going forward. If
12 there's any other questions, I'll be glad to answer those.

13 **Bill Harris**: Mr. Chairman.

14 **Donnie Ratliff**: Sure.

15 **Bill Harris**: Just one question, for clarification. On the very first page, there is a diagonal line
16 there. Left hand.

17 **Gus Janson**: Oh, that's the county line between Dickenson and Buchanan. You will see it a little
18 clearer on the view...

19 **Bill Harris**: Oh. Further back I thought that there...

20 **Gus Janson**: I think they are asking.... the two counties are in gray there.

21 **Donnie Ratliff**: Any other questions?

22 **Rick Cooper**: Mr. Chairman. I would just like to point out for record, this exhibit that Mr.
23 Janson passed out, for anyone who needs to know, is on page 25 of the petition. So we have this
24 on file.

25 **Donnie Ratliff**: Okay. Anything else?

26 **Jim Kaiser**: We ask that the application be approved as submitted, Mr. Chairman.

27 **Donnie Ratliff**: The Board acts on a motion, gentlemen.

28 **Donnie Rife**: Motion made, Mr. Chairman, for approval.

1 **Donnie Ratliff**: Do I have a second?

2 **Bill Harris**: I'll second.

3 **Donnie Ratliff**: All those in favor...

4 **Board**: Aye.

5 **Gus Janson**: Thank you.

6 **Donnie Ratliff**: Thank you.

7

8 **Item Number 19**

9 **Donnie Ratliff**: Next, we'll uh... we'll go out of order and call Item 19 first. Petition from CNX
10 Gas, LLC., for the disbursement of escrowed funds hereto deposited with the Board's Escrow
11 attributable to Tracts 2A, 4B, 4C & 4G as depicted upon the annex maps. Royalty currently
12 being paid under BUC1SGU2, VGOB 08-1118-2367. Docket Number VGOB 98-0324-0638-06.
13 All parties interested, please come forward.

14 **Sarah Gilmer**: Ms. Shaver. Will Mr. Osborne be speaking?

15 **Jennifer Shaver**: Pardon?

16 **Sarah Gilmer**: Will Mr. Osborne be speaking?

17 **Jennifer Shaver**: No. I don't expect him to give testimony.

18 **Sarah Gilmer**: Okay.

19 **Donnie Ratliff**: You may proceed, Mr. Swartz. Are you ready?

20 **Mark Swartz**: Appearing for the applicant: Mark Swartz and Anita Duty.

21 **Sarah Gilmer**: Ms. Duty, do you swear and affirm that your testimony is the truth, the whole
22 truth, and nothing but the truth?

23 **Anita Duty**: Yes.

24 **Mark Swartz**: Anita would you state your name for us, please?

25 **Anita Duty**: Anita Duty.

26 **Mark Swartz**: And who do you work for?

27 **Anita Duty**: CNX Land, LLC.

1 **Mark Swartz**: This is a request for a disbursement, correct?

2 **Anita Duty**: Yes.

3 **Mark Swartz**: Did you either prepare or supervise the preparation of this?

4 **Anita Duty**: I did.

5 **Mark Swartz**: Okay and the reasons for the disbursement request are what?

6 **Anita Duty**: We have a court order and a royalty split agreement.

7 **Mark Swartz**: Okay and the court order does not involve Mr. Osborne, correct?

8 **Anita Duty**: That is correct.

9 **Mark Swartz**: And the court order is.... directing the Board's attention to the table which has
10 the payouts, there are 4 tracts at issue here. 2A, 4B, 4C, 4G and the tract that Mr. Osborne is
11 interested in is the 4G tract in the table, right?

12 **Anita Duty**: Yes.

13 **Mark Swartz**: And Mr. Glubiak has indicated in things, I think, that he filed with the Board that
14 he has some health...his family has some health issues and so forth. And I've been told that this
15 case has been re-filed in December, so there is actually a pending case. So, I told Mr. Glubiak
16 that we would (with your permission, obviously) pull out Tract 4G from the disbursement
17 request, until such time as he could come back to address that, if he wanted to. I would like to
18 move forward with the other three tracts and the disbursement to Wilderness Tabernacle
19 probably, because they are going to receive a substantial amount of money here and we don't
20 want to hold that up, so...

21 **Donnie Ratliff**: Anyone on the Board have a problem with that? To pull 4G? And they will
22 submit a new sheet to staff to reflect that? That way we can go forward? Is that fine?

23 **Mark Swartz**: Does that work for you, Mr. Kugelman?

24 **Rick Cooper**: Yeah, we would appreciate, you know, if you do, that we would appreciate getting
25 those in by the end of this week.

26 **Jennifer Shaver**: Mr. Chairman, if I may. Jen Shaver. I'm here with Mack Osborne. That was
27 the only tract item that we were interested in. So, if the Board does so move to remove that from
28 this docket item, then we will dismiss ourselves.

29 **Donnie Ratliff**: We will remove that item and they will submit a new sheet without Tract 4G on
30 it. Okay?

1 **Jennifer Shaver**: Thank you.

2 **Paul Kugelman**: When you submit that, could you copy her on that? Just so she has it?

3 **Mark Swartz**: Actually I will send it to Pete, but yes.

4 **Paul Kugelman**: Okay. Thank you.

5 **Donnie Ratliff**: You may proceed.

6 **Mark Swartz**: Going back to the first part of the application. The Board may notice that... and
7 this is an example of that. When the forms come off (and I assume since I downloaded this stuff
8 on Sunday from the website that you access, I think we should have the same document.) But
9 and some of the petitions today, you either get the first page of the petition twice, in two slightly
10 different formats, or in this instance, you get the first page of the petition, which is not an
11 accurate copy of what we actually filed. I mean it has the same language, but there's no, at least
12 my first page in the PDF...is a first page of a petition, but there is no second page. And I'm
13 assuming that you are missing the second page, as well.

14 **Bill Harris**: Umm...

15 **Donnie Ratliff**: Yes.

16 **Mark Swartz**: And that is apparently some kind of download issue from the website. And it
17 doesn't happen in all of these today. But sometimes you get the first page twice, and this one,
18 you get it once and you are missing the second page. So I'm going to cover essentially the
19 second page only has Anita's attestation, so it's not a big deal but... I just wanted to point that
20 out to you. It's a... It's a problem when stuff comes off the website. When we file the
21 application, it's the whole thing. For some reason or other, when we download it to put it
22 together for the Board and us, sometimes it doesn't come off... I don't know what the cause of
23 that is, but I'm just pointing that out to you, that we do file complete petitions. Seems to be some
24 technical issue and I'm sure that Mr. Cooper will address that.

25 **Bill Harris**: Umm...

26 **Donnie Ratliff**: Mr. Harris, you have a question?

27 **Bill Harris**: Uh, yeah. When I look at my PDF, though, it says Page Number 1, and when I flip
28 over, there's a topo map that says Page Number 2. Are you saying that that Number 2 is not
29 really Number 2?

30 **Anita Duty**: This is going to apply more to the other disbursements that we do. I think this one
31 was okay in its format because we were going to close this account out.

32 **Bill Harris**: Well, I mean that...

1 **Mark Swartz**: But some of these, you will see Page 1 twice, as we go through it.

2 **Anita Duty**: He's just bringing it to your attention because of going forward.

3 **Bill Harris**: Literally 1 and then 1 again. They are called Page 1 and Page 1?

4 **Mark Swartz**: Right. And I just... there's some inconsistency, one to the next.

5 **Bill Harris**: Okay. Thank you.

6 **Anita Duty**: You will see one that actually has my signature on it, and then one is generated
7 from e-Forms.

8 **Mark Swartz**: And that has happened several times. Not on this particular request, but... you
9 will see that periodically.

10 **Donnie Ratliff**: Okay.

11 **Bill Harris**: Okay. Thank you.

12 **Mark Swartz**: With regard to this then, we are proceeding only with the Wilderness Tabernacle
13 disbursement, you understand.

14 **Anita Duty**: Yes.

15 **Mark Swartz**: Okay and tell the Board what happened that makes that appropriate.

16 **Anita Duty**: We were notified by Shea Cook, of a court order. And we proceeded with the
17 disbursement from then.

18 **Mark Swartz**: And there was a file order in a case that resolved the dispute as to who owned the
19 coalbed methane on November 13, 2014.

20 **Anita Duty**: Yes.

21 **Mark Swartz**: And you have seen that order.

22 **Anita Duty**: I have.

23 **Mark Swartz**: And who won?

24 **Anita Duty**: The Tabernacle.

25 **Mark Swartz**: And they were entitled... under that court order, to 100%?

26 **Anita Duty**: They were.

27 **Mark Swartz**: And is that what you have provided in your Table 1?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** So, with regard to the disbursement that we are prepared to move forward today,
3 with....pertaining to Unit V-36, would you tell the Board, so that the instructions can be made to
4 the escrow agent to accomplish this disbursement, what tracts are involved and what percentages
5 should be used.

6 **Anita Duty:** For Tract 2A, Wilderness Tabernacle should receive 83.6899% of the escrow. For
7 Tract 4B the Wilderness Tabernacle should receive 7.2957%, and for Tract 4C Wilderness
8 Tabernacle should receive 4.2792%.

9 **Mark Swartz:** And just to repeat, so the escrow agent gets if they are looking at this
10 transcript...gets clear instructions. They are not to make any disbursement to Hurt-McGuire or
11 Winfred Mack Osborne with regard to 4G, pending a further petition or further order, correct?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** And then if we go to the next page, if we had been able to pay out all of this, the
14 escrow account could have been closed. But obviously, because we are holding back a tract, the
15 escrow account needs to remain open.

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And would it be your preference that the Board order reflect that either... that the
18 question of further petition to withdrawal funds from escrow be placed at the doorstep of Hurt-
19 McGuire or Mr. Osborne? Since we tried to do it, and they wanted... if they want to address that
20 the Board... in its order, should indicate that it's up to them to do it?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** That would be up [Inaudible]...Did you attempt to reconcile the escrow account
23 with your payment records?

24 **Anita Duty:** We did.

25 **Mark Swartz:** Okay and did you prepare an exhibit in that regard?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** Okay and that starts at (I think) page 19? If I'm not correct, it's Exhibit J?

28 **Anita Duty:** Yes.

29 **Mark Swartz:** And in that exhibit, did you undertake to compare the checks...the royalty checks
30 that the operator sent to the various escrow agents, to the deposit records of the various escrow
31 agents?

1 **Anita Duty**: Yes.

2 **Mark Swartz**: And you were able to account for all of them? Meaning did you find every....did
3 you find a deposit for every royalty check you sent?

4 **Anita Duty**: Yes. There were some variances in some of the deposits, though.

5 **Mark Swartz**: Okay and were you able to account for those?

6 **Anita Duty**: We are showing them on the table. We weren't able to figure out the problem. It
7 was a posting error I guess.

8 **Mark Swartz**: You weren't able to figure out what the bank did that caused that.

9 **Anita Duty**: Right.

10 **Mark Swartz**: And those are listed in red, I take it?

11 **Anita Duty**: If you look on the table, in the column that says 'CNX Deposit Information' and
12 then you look at the table directly to the right of that, you will see those in bold. You will see the
13 differences in the deposits, versus our records.

14 **Mark Swartz**: Okay and when you get to the end of the day... well let's go back. When did you
15 start... when was the first payment that you considered... what was the check date?

16 **Anita Duty**: September 25, 19... no... April 23, 1999.

17 **Mark Swartz**: Okay and that included....

18 **Anita Duty**: It was first posted by the bank on April 30, 1999. Actually our check dates show
19 September 25, 1998.

20 **Mark Swartz**: Okay and then the bank first posted that on what date?

21 **Anita Duty**: April 30, 1999.

22 **Mark Swartz**: Okay so from...so you're accounting for checks from September of 1998,
23 through what date?

24 **Anita Duty**: Through September 30, 2014.

25 **Mark Swartz**: Okay and that's the last entry.

26 **Anita Duty**: Yes.

27 **Mark Swartz**: Okay and you show Totals Deposited, you show 4 disbursements previously,
28 correct?

1 **Anita Duty**: Yes.

2 **Mark Swartz**: You show a Total of Interest and Fees. And then you show a total (based on your
3 calculations) that you would expect to find in the trust account?

4 **Anita Duty**: Yes.

5 **Mark Swartz**: And then your showing the September First Bank & Trust balance, correct?

6 **Anita Duty**: Yes.

7 **Mark Swartz**: And when you compare those to the Is there a difference?

8 **Anita Duty**: Yes.

9 **Mark Swartz**: What amount?

10 **Anita Duty**: \$1,393.40.

11 **Mark Swartz**: And that difference is... your calculations which show that amount, in excess of
12 what's currently there.

13 **Anita Duty**: Um, less than what the bank shows.

14 **Mark Swartz**: Oh, less than what the bank shows. Well I'm thinking the bank shows 333 and
15 your calculations show 334.

16 **Anita Duty**: Right.

17 **Mark Swartz**: So the difference is actually, the bank has 1393 dollars less than what you show
18 in your calculations.

19 **Anita Duty**: That's...right. That's what I meant. Yeah. Sorry.

20 **Mark Swartz**: And is your... how do you account for that? Is it the fact that we do not have
21 access to the interest and fees numbers?

22 **Anita Duty**: I think the majority of it, is just the difference in the check amount versus the
23 posted amount.

24 **Mark Swartz**: Okay and again let's go back.

25 **Anita Duty**: And interest and fees. I mean a little bit of both.

26 **Mark Swartz**: Because there is always some of that.

27 **Anita Duty**: I mean that's a long history.

1 **Mark Swartz**: Okay and where are... was there a period of time when most of those differences
2 occurred? When was that?

3 **Anita Duty**: It looks like 1999.

4 **Mark Swartz**: Okay so in the very beginning.

5 **Anita Duty**: Yes. And that's most likely the transition between the two escrow agents.

6 **Mark Swartz**: Alright. And we've already indicated that the... that this account is going to need
7 to be maintained because of the one tract that we are not paying out, correct?

8 **Anita Duty**: Correct.

9 **Mark Swartz**: And I've got one more thing, here. Have you provided... you are going to
10 provide documentation to Mr. Cooper by the end of the week, with regard to that.

11 **Anita Duty**: Yes.

12 **Mark Swartz**: And we probably need to provide him with an Exhibit E, then.

13 **Anita Duty**: Yes.

14 **Mark Swartz**: Okay. In addition to the [inaudible]. Umm....let me just make sure there is
15 nothing else here. And then because the account isn't being closed entirely, we are then asking
16 for authority to pay Wilderness Tabernacle going forward, directly. But we are not asking to pay
17 Osborne and Hurt-McGuire, directly, correct?

18 **Anita Duty**: Correct.

19 **Mark Swartz**: That's all I have.

20 **Donnie Ratliff**: Questions from the Board? [None] Staff?

21 **Rick Cooper**: I've got one question, to who is the check to be written and who is to receive it?

22 **Anita Duty**: It is to be written to the tabernacle, but then Shea Cook will receive it on behalf of
23 them.

24 **Mark Swartz**: So it will be mailed?

25 **Anita Duty**: Yes. He did send you a copy of the affidavit? Okay.

26 **Donnie Ratliff**: So we need a motion. That we approve, pending submittal of a new chart and an
27 Exhibit E. Right?

28 **Donnie Rife**: Motion made for an approval.

1 **Donnie Ratliff**: Do I have a second?

2 **Bill Harris**: I'll second.

3 **Donnie Ratliff**: All in favor?

4 **Board**: Aye.

5 **Donnie Ratliff**: All those opposed. It's approved. Now we go back to Item 10.

6 **Mark Swartz**: That would be great.

7

8 **Item Number 10**

9 **Donnie Ratliff**: Petition for CNX Gas, LLC., for pooling Unit K2 under Oakwood Coalbed
10 Methane Field Number 1. Docket Number VGOB 15-0217-4062. All parties wishing to speak,
11 please come forward.

12 **Mark Swartz**: Mark Swartz and Anita Duty.

13 **Donnie Ratliff**: You may proceed.

14 **Mark Swartz**: Thank you. Anita would you state your name for us, please?

15 **Anita Duty**: Anita Duty.

16 **Mark Swartz**: Who do you work for?

17 **Anita Duty**: CNX Land, LLC.

18 **Mark Swartz**: And what is your title with them?

19 **Anita Duty**: I'm Pooling Supervisor.

20 **Mark Swartz**: Do your responsibilities as pooling supervisor include the preparation of
21 applications, notices, and related exhibits?

22 **Anita Duty**: Yes.

23 **Mark Swartz**: Do you either prepare the application notice and exhibits, or supervise their
24 preparation?

25 **Anita Duty**: Yes.

26 **Mark Swartz**: Okay and I think you signed the application and the notice, if I'm not mistaken?

27 **Anita Duty**: I did.

1 **Mark Swartz**: Okay and this is a... an application to pool a unit, correct?

2 **Anita Duty**: Yes.

3 **Mark Swartz**: What field is it located in?

4 **Anita Duty**: Oakwood.

5 **Mark Swartz**: It's an 80 acre unit?

6 **Anita Duty**: Yes.

7 **Mark Swartz**: And the unit we are going to be talking about is K (K as in Kappa) two, is that
8 correct?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: What did you do to tell people that we are going to have a hearing today?

11 **Anita Duty**: Mailed by certified mail, return receipt requested, on January 16, 2015. I published
12 the notice and location map in the *Bluefield Daily Telegraph* on January 23, 2015.

13 **Mark Swartz**: And have you previously filed your certificates with regard to mailing and with
14 regard to publication online with the Board?

15 **Anita Duty**: Yes.

16 **Mark Swartz**: And I think some of them are actually attached... some of that information is
17 actually attached to the last set of pages of what's been sent to the Board and us.

18 **Anita Duty**: Yes.

19 **Mark Swartz**: Okay this... how much of this... or what portion of this unit needs to be pooled,
20 in terms of percentages or acreage?

21 **Anita Duty**: We have leased 100% of the coal owner's claim and 78.5687% of the oil and gas
22 owner's claim. Seeking to pool 21.4313% of the oil and gas owner's claim.

23 **Mark Swartz**: And that's reflected in the exhibits correct?

24 **Anita Duty**: Yes.

25 **Mark Swartz**: Okay on the applicant here, is CNX Gas, and who was... you said that the
26 applicant is asking the... designated the operator if the application is approved.

27 **Anita Duty**: CNX Gas Company.

1 **Mark Swartz**: Okay and CNX Gas Company is a Limited Liability Company, formed in
2 Virginia, correct?

3 **Anita Duty**: Yes.

4 **Mark Swartz**: Authorized to do business in the Commonwealth?

5 **Anita Duty**: Yes.

6 **Mark Swartz**: Has it registered with the D.M.M.E.?

7 **Anita Duty**: It has.

8 **Mark Swartz**: And the D.G.O.?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: Does it have a blanket bond on file with the DGO?

11 **Anita Duty**: Yes.

12 **Mark Swartz**: Do you want to add any people as respondents today? Or dismiss any people as
13 respondents?

14 **Anita Duty**: We are dismissing Buchanan Realty.

15 **Mark Swartz**: Okay and there is an Exhibit 2, with regard to that, I think?

16 **Anita Duty**: Yes. And we floated it to the website so it should (hopefully) be there for
17 everybody.

18 **Mark Swartz**: And the reason for the dismissal is what?

19 **Anita Duty**: We incorrectly showed them as needing to be pooled.

20 **Mark Swartz**: And do you want to... other than Buchanan Realty... and I do see a B-2 Exhibit
21 and what I think was something [inaudible].

22 **Anita Duty**: Yes. I think we uploaded a new Tract I.D.

23 **Mark Swartz**: Okay and other than the folks listed on the Exhibit B-2, that's Blue Ridge...
24 anybody else that you want to dismiss?

25 **Anita Duty**: No.

26 **Mark Swartz**: Do you want to add anyone today?

27 **Anita Duty**: No.

1 **Mark Swartz**: Okay and have you provided an Exhibit B with your application that lists all of
2 the people that you noticed under 361.19, both the oil and gas owners and the coal owners?

3 **Anita Duty**: Yes.

4 **Mark Swartz**: Okay and then have you also provided the Board with an Exhibit B-3, which is a
5 list of the people that you are seeking to pool?

6 **Anita Duty**: Yes.

7 **Mark Swartz**: Okay and with regard to Exhibit B-3, who have you listed on Exhibit B-3 in
8 terms of their interest?

9 **Anita Duty**: The unleased owners.

10 **Mark Swartz**: And of what estate?

11 **Anita Duty**: The oil and gas estate.

12 **Mark Swartz**: Okay and there are no coal owners listed on Exhibit B-3 as people you are
13 seeking to pool, in regard to this application, correct?

14 **Anita Duty**: Correct.

15 **Mark Swartz**: And is that because given the... some of the statutory changes, that the legislature
16 has made with regard to presumptions of... heard some time ago. And then the Swords Creek
17 Decision, which was cited by the Supreme Court last September, that it's our collective opinion
18 that although we are required to notice coal owners by 361.19, absent something unusual, from
19 them, we are not going to pool them routinely.

20 **Anita Duty**: Correct.

21 **Mark Swartz**: And in that regard, if we go to ...I don't think we have an Exhibit E here,
22 correct?

23 **Anita Duty**: Correct.

24 **Mark Swartz**: Because if the coal and gas estates are not in conflict, we don't need a conflicts
25 escrow.

26 **Anita Duty**: Correct.

27 **Mark Swartz**: And we don't have any unknowns here?

28 **Anita Duty**: No.

29 **Mark Swartz**: Or unlocatables?

1 **Anita Duty**: No.

2 **Mark Swartz**: Any type of conflicts?

3 **Anita Duty**: No.

4 **Mark Swartz**: So there's no reason to escrow here. Correct?

5 **Anita Duty**: Correct.

6 **Mark Swartz**: Okay with regard to the wells, how many wells are proposed here?

7 **Anita Duty**: Two.

8 **Mark Swartz**: And is this unit over a mine? Or a mine plan?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: Which mine?

11 **Anita Duty**: The Buchanan Number 1.

12 **Mark Swartz**: These frac wells, are in advance or in conjunction with mining.

13 **Anita Duty**: Yes.

14 **Mark Swartz**: And one of them happens to be in the window?

15 **Anita Duty**: Yes.

16 **Mark Swartz**: And one of them is not.

17 **Anita Duty**: Yes.

18 **Mark Swartz**: And they are shown on the plat map, that you provided, I believe?

19 **Anita Duty**: Yes.

20 **Mark Swartz**: K2-A is in the northeast corner of the drilling window and K2 is slightly south of

21 the drilling window. So, close to the center of the unit.

22 **Anita Duty**: Yes.

23 **Mark Swartz**: Of course, the midway point from East to West, I should say.

24 **Anita Duty**: Yes.

25 **Mark Swartz**: And K2 is being drilled as a de-gas outside of the window.

1 **Anita Duty**: Yes.

2 **Mark Swartz**: Have you provided cost estimates with regard to these wells?

3 **Anita Duty**: We have.

4 **Mark Swartz**: And what are those estimates?

5 **Anita Duty**: For K2, the estimated cost \$389,129.00. Estimated depth 2,900 ft. Filed with a
6 permit number of 12941. For K2A, \$389,129.00, estimated cost. And Estimated depth 2,500 feet.
7 No permit.

8 **Mark Swartz**: And neither of these wells have been drilled yet, correct?

9 **Anita Duty**: Correct.

10 **Mark Swartz**: And as we said, no escrow requirement. To the extent that there is a requirement
11 that people be deemed to have been leased... what are the lease terms that you have been
12 offering?

13 **Anita Duty**: \$5.00 per acre, per year, with a 5 year paid-up term and 1/8th royalty.

14 **Mark Swartz**: And would you recommend those terms to the Board for any deemed to have
15 leased provision?

16 **Anita Duty**: Yes.

17 **Mark Swartz**: Okay is it your opinion that drilling these frac wells in the locations shown on the
18 wells, is a reasonable way to develop the coal bed methane resource, within this unit?

19 **Anita Duty**: Yes.

20 **Mark Swartz**: And will also contribute to de-gassing the Buchanan Number 1 mine below.

21 **Anita Duty**: Yes.

22 **Mark Swartz**: Alright, and is it your opinion that if the Board enters a pooling order, pooling the
23 folks listed on Exhibit B-3, and you combine that pooling order with the interest that you've
24 been able to acquire... the correlative rights of the oil and gas owners will be protected?

25 **Anita Duty**: Yes.

26 **Mark Swartz**: That's all I have Mr. Chairman.

27 **Donnie Ratliff**: Any questions?

28 **Rick Cooper**: Mr. Chairman.

1 **Donnie Ratliff**: Go ahead.

2 **Rick Cooper**: I would like to point out that it's been a topic in the past, that Mr. Staton, who has
3 signed the A.F.E. is sitting here, if you have any specific questions. But the guy who signed the
4 A.F.E. for CNX is sitting there.

5 **Donnie Ratliff**: I assume that the reason K-2 is out of the window, is because of the mine plan?

6 **Anita Duty**: Um we... I was actually looking at our location exception that we sent to Mr.
7 Cooper, and we are requesting it due to sloping terrain, abandoned/unclaimed ... un-reclaimed
8 high walls, surface mining, and the proposed site cannot be safely constructed inside the
9 window.

10 **Donnie Ratliff**: Okay any questions? Do you have anything else, Mr. Swartz?

11 **Mark Swartz**: That's it.

12 **Donnie Ratliff**: The Board acts on a motion, gentlemen.

13 **Donnie Rife**: Motion made, Mr. Chairman.

14 **Donnie Ratliff**: Motion. Do we have a second?

15 **Bill Harris**: I'll second that.

16 **Donnie Ratliff**: All those in favor, say 'Aye'.

17 **Board**: Aye.

18 **Donnie Ratliff**: Opposed? Item is approved.

19

20 **Item Number 11**

21 **Donnie Ratliff**: Mr. Swartz we now call Item Number 11. A petition from CNX Gas, LLC., for
22 re-pooling and dismissal of certain coal claimants on conflicting...as conflicting. Unit W47.
23 Docket Number VGOB 98-1117-0699-02. All parties wishing to speak, please come forward.

24 **Mark Swartz**: **Mark Swartz** and **Anita Duty**.

25 **Donnie Ratliff**: You may proceed.

26 **Mark Swartz**: Thank you. Mr. Chairman, if you could incorporate Anita's prior testimony, with
27 regard to her employment, the applicant and operator and the standard lease terms, I'd appreciate
28 it.

1 **Donnie Ratliff**: We can do that.

2 **Mark Swartz**: Thank you. Anita, will you state your name again?

3 **Anita Duty**: Anita Duty.

4 **Mark Swartz**: Who do you work for?

5 **Anita Duty**: CNX Land, LLC.

6 **Mark Swartz**: And this is an application to re-pool? Correct?

7 **Anita Duty**: Yes. Yes.

8 **Mark Swartz**: And it's also an application to dismiss coal claimants?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: What's the reason for re-pooling?

11 **Anita Duty**: There were some mapping revisions.

12 **Mark Swartz**: So the plat has been updated.

13 **Anita Duty**: Yes.

14 **Mark Swartz**: So, presumably, some of the percentages changed?

15 **Anita Duty**: Yes. Just slightly. Not a lot.

16 **Mark Swartz**: Okay and the...with regard to that, is the plat that connects to this application...

17 does it have the tracts in the configuration after they were adjusted?

18 **Anita Duty**: Yes.

19 **Mark Swartz**: And what caused the change? Questions from the people in the unit? Or

20 remapping? Or...

21 **Anita Duty**: I think that particular one was the site visit, and different things like that to try to

22 locate wells.

23 **Mark Swartz**: And in the process of doing that, you adjusted some of the properties?

24 **Anita Duty**: Yes. The mapping part. Like GPS and things now so it's a little more accurate

25 going forth.

26 **Mark Swartz**: Or at least different.

27 **Anita Duty**: Yes.

1 **Mark Swartz**: Okay and I'd like to point out to the Board a couple of differences in the re-
2 pooling application here that I don't think we... they probably have not seen before. Let me go to
3 the first page here. If we look at the application, in the Relief Sought, we have re-pooling, and of
4 course we've re-pooled many times, correct?

5 **Anita Duty**: Yes.

6 **Mark Swartz**: But we've also got a request for relief, dismissal of certain coal claimants,
7 correct?

8 **Anita Duty**: Yes.

9 **Mark Swartz**: And I'll sort of address that with you and all and you can have at Anita and I, in
10 terms of questions if you have any. You and I have been doing this for quite some time, correct?

11 **Anita Duty**: Yes.

12 **Mark Swartz**: And were you involved in this before helping Les Arrington?

13 **Anita Duty**: Yes.

14 **Mark Swartz**: And of course, Les and I go way, way back. Right? Before you were born
15 probably.

16 **Anita Duty**: Yep. Maybe.

17 **Mark Swartz**: And well, initially, in the 1990s when (I think) the first hearings under the new
18 law (The Oil and Gas Act of 1990) were in September of 1990 and were in Bristol... at the
19 library because we didn't have a place to be. At that time, there really was no guidance in terms
20 of who owns coalbed methane. So we had... I think frankly... I feel like the coal people felt they
21 had the upper hand at that point. But they were certainly present and arguing that they were
22 claimants and that they had legitimate claim. The oil and gas owners were there. And 361.19,
23 which is the statute that I passed out earlier, if you will notice in the beginning of that, it sort of
24 lists the people that applicants for pooling applications and other activities... the people that we
25 are supposed to notify. And on that list are oil and gas owners and coal owners. So whether or
26 not we think a coal owner has a claim, or an oil and gas owner has a claim, the statute just says if
27 they are in the unit you need to let them know. And that's something that we did, with regard to
28 that application, correct?

29 **Anita Duty**: Yes.

30 **Mark Swartz**: We notified everybody.

31 **Anita Duty**: We did.

1 **Mark Swartz:** Okay. And in the beginning, the Board needed to address escrow issues. As did
2 the operator. And in the beginning, there was really no guidance in the Commonwealth as to the
3 merits of the competing claims. And the Board, reasonably and immediately let it be known, I
4 think, with maybe some assistance from the operators (although I'm not certain). But the Board
5 made it clear that they were going to presume that these people had claims and they weren't
6 going to resolve them. But they were going to require that money be escrowed until those claims
7 were resolved. And we continued to do that for many years, because there was no activity in the
8 legislature, or in the Supreme Court, actually... to help us answer those questions. In amongst
9 the stuff that I passed out earlier, there is a statute which our legislature passed, not in his
10 session, but several sessions ago. I want to just point out to you, it's 41... or 45.1-361.19 it's in
11 the second page of the handout statute that I collected for your guys. And it was an attempt by
12 our legislature to create a presumption as to resolve this conflict. And it says a conveyance
13 reservation or exception of coal shall not be deemed to include coalbed methane gas. And that
14 statute, obviously, if you read it, is a going-forward statute, not a reaching-back. And but the
15 reaching-back resolution really is the Swords Creek case, which I think the Supreme Court
16 published in September of last fall. And that decision seemed to me, and CNX's title words, an
17 indication by the Supreme Court that probably the typical coal severance deed, does not sever
18 CMB or does not create a claim to CBM by the coal owner. And this application (and you will
19 see many more of these from us as we move forward) is an attempt on our part, to sort of take the
20 law as it has developed, and share with you our thinking. That the coal claimants should no
21 longer be presumed absent, something special... to be conflicting claimants given state of the
22 law in the Commonwealth between what the legislature... now there's some current legislature
23 that hasn't taken affect yet, but when you look at the presumption in 361.21.1, going forward,
24 that's been on the books for a couple of years, I think. And then you look at the Swords Creek
25 case, I think it's appropriate to really flip the presumption now and presume that (absent
26 something unusual) the Board... it would be appropriate for the Board to presume, going
27 forward, that the coal... or that the oil and gas claimants, are the owners of the CBM. And to not
28 make the assumption that there is a conflict. Obviously, when we were re-pooling, we have
29 previously pooled the coal owners in this unit, for example. In W47. They were pooled as
30 respondents. And their money was put into escrow. Or their claims... their claims to money was
31 put into escrow. If you look then, at the application, which would be page one of what we have
32 on W47, you will see under Relief Sought, paragraph two, it says, you know, we are seeking to
33 re-pool this because we are making changes in the tract sizes. But also, too, dismissal of
34 respondents named in this paragraph two, as respondents and as conflicting claimants, but only
35 to the extent that they are not parties to royalty splitting. So, if they entered into royalty splitting,
36 we are not going to try to set those aside as something special that happened. And we actually
37 list here, the people that we are asking you to dismiss as respondents from the prior pooling order
38 and they are listed in paragraph two. So, we are saying... you know we are giving these people a
39 notice, and we are saying one of the things we are seeking to do at this hearing, is to dismiss you
40 as pooled parties. And then if you come down to seven, those are the folks that we are seeking to

1 re-pool and there is quite a list of them. And those are the gas and oil owners. And then at the
2 end of paragraph seven, after that long list, there is a repeat that the respondents...coal owners
3 named immediately below, and their conflicting claims. But only to the extent that they are not
4 subject to split agreements. We are asking...we are going to ask that they be dismissed. That
5 those things be dismissed. So on our application, we are trying to tell coal owners, you know, we
6 are going to seek this relief at the hearing that we are having today. And we want you to be
7 aware of that. And in the Notice of Hearing, we of course sent it to all these people (including
8 the coal owners) but we added a paragraph at the very end...well we added something in the
9 beginning, as well... we repeated that paragraph two, saying 'these are the people we are going
10 to seek to dismiss' (the coal owners). But then at the very bottom of the last page of the notice,
11 we added a paragraph. "Notice is further..." (and I'm only going to do this once today, but I
12 figured since the forms have changed, I'd spend the time on the first one)... "Notice is further
13 given that any coal owner identified in paragraph two above, who does not appear at this hearing
14 and provide the Board with evidence and/or a credible theory or argument that he/she/it has a
15 good faith basis under existing law to claim interest in the coalbed methane produced from the
16 unit, is subject to dismissal as a pooled respondent and as a conflicting claimant to coalbed
17 methane royalties, working interest, or carried interest." And so, that's the relief we are seeking.
18 That's the notice we have given to the coal owners that were previously pooled in this unit, that
19 if you want to push back against this, today is the day to do that. And so with that in mind, I am
20 going to proceed to talk to Anita about the things that we normally talk to... talk or address in
21 these hearings. But I wanted you to be aware of the fact that in re-pooling and pooling going
22 forward, we are... what you are going to be hearing from us is, we believe that the presumption
23 should be that... the reverse. And this is how we should deal with these claims. If at this point,
24 the Board wants to address that issue, fine. Or if you want me to proceed with Anita...

25 **Donnie Ratliff**: Let's let Mr. Kugelman ask a question.

26 **Paul Kugelman**: Thank you, sir. I just want to make sure I'm on the... I'm clear about what you
27 are asking the Board to do. Are you representing to the Board, that the coal owners are no longer
28 a conflicting claimant and you are asking them to accept that part of the petition? Or are you
29 asking the Board to make a determination that the coal owners are not the coalbed methane gas
30 owners in these particular instances?

31 **Mark Swartz**: We are discharging our duty to tell the Board whether or not we think escrow is
32 required.

33 **Paul Kugelman**: So you are making the determination. You are just asking the Board to adopt
34 what you are...

35 **Mark Swartz**: We are offering our opinion as to whether or not escrow is required in this unit
36 because of conflicting coal claims and we are submitting... you know... no exhibit to suggest

1 that escrow occur. Going forward, now we've got the problem, obviously, we have money in the
2 escrow. I mean we are not asking you to pay out of escrow today. And...

3 **Paul Kugelman**: I understand.

4 **Mark Swartz**: That's for another day. But there is money in escrow that was escrowed by prior
5 orders of this Board to address conflicting claims. What this... since this is an existing unit, on a
6 going forward basis, if you were to re-pool this unit today, on a going forward basis, there would
7 be no conflict with regard to... between the coal and gas owners. We're not submitting an
8 Exhibit E requiring escrow going forward. So on a going forward basis, the operator would be
9 paying those people. But we still have the money in escrow, that we are going to have to address
10 at some point. My preference would be to come back to you in a month or two and say we've
11 resolved all the conflicts, you know? Let's pay the money out. But the legislature has just passed
12 the statutes that would cause that to happen. Whether or not we buy into it at this point or not.
13 But I think... my view is...you guys have the power to...

14 **Paul Kugelman**: Am I in the wrong chair, Mr. Swartz? Should I have sat...You...you want to
15 come up here?

16 **Mark Swartz**: I guess I tell people what I think are reasonable outcome is all of the time, and
17 sometimes they say 'no, we don't think that's reasonable...' and I'm trying to persuade this
18 Board to move forward. To solve a real problem in what I think is a pretty straight forward way.
19 And when I come back...when I say it's a straightforward way...if it has become unreasonable
20 for people in this room to assume that coal owners really have a dog in the hunt, 99 times out of
21 100, we need to take that head on and we need to address it. And we need to address it in a
22 productive way, to move forward. And what I'm suggesting to the Board is that, you know, our
23 title work and our thinking is, that the time to indulge in a presumption (and you've always made
24 the presumption). The presumption has been that there is a conflict. We are saying it is no longer
25 reasonable to make that presumption and you know... we are in front of you, inviting you to
26 make the assumption that absent some special circumstance, and we're telling the coal owners if
27 you feel you have a special circumstance, show up and tell us. And at that point, let's say
28 somebody comes (to come back to Mr. Kugelman's question) let's say somebody showed up
29 today and said 'I have this agreement,' or 'I have this deed,' and it's different and 'I think I...' or
30 'I have a lawsuit.' At that point, I think you do have to punt. And you have to say 'well we're not
31 going to decide that issue, then.' Because our... you know... you're challenging our presumption
32 and we're not going to tell you who owns this or who doesn't own it. But I think unless and until
33 a coal company or coal owner shows up and says 'There's something special about my
34 situation,' I think it's time to flip the presumption. And move forward productively to not put
35 money in escrow that doesn't need to be there, and to figure out a way to get money out of
36 escrow that now we know probably should be there. So that's where we're coming from. And
37 we're not asking you to construe deeds, to construe instruments. If people show up with them,
38 you are going to have the opportunity to say 'We don't do that.' But I think you have adopted an

1 approach to dealing with these in the past. And you've followed that for twenty-some years and
2 that is 'We are going to presume that this is the case...normally.' You know I'm suggesting to
3 you that it's time to get rid of that. It's time to have a new one.

4 **Donnie Ratliff**: Mr. Kugelman.

5 **Paul Kugelman**: Thank you, sir. Counsel's concern is, first of all, as a prefatory note, the way
6 this is being presented, I don't have an objection to. But I want to make sure that the Board is
7 clear on what's really happening here. And I need to provide some context. Basically, the Board
8 does not have the authority to make the determination as to whether somebody owns. If Mr.
9 Swartz is... the evidence that he is going to present, is that the gas operator's title work, indicates
10 that the coal owner, despite notice, based on their title work, is not an owner of the coalbed
11 methane gas, the Board is fine acting on that. But to the extent that a petition asks the Board
12 make any determinations about whether coal ownership equals CBM ownership in this case, the
13 law (in my mind) has been clear for a while on that point. But it's not for the Board to say. The
14 court has already ruled that the coal owners have some due process rights. And that notice that
15 has been provided, gives that. But I just want to be clear that we don't depart from, or get the
16 notion that 'Hey you know what? The law's changed and now we're going to make
17 determinations about coalbed methane ownership.' And part of the concern that I have, too, is
18 the law that Mr. Swartz alludes to is Delegate Kilgore's House Bill 2058. It does change the law
19 and my concern is that if we try to get to that before July, and start operating with that law before
20 it comes into effect, if we had the authority to do that, if the Board had the authority to operate
21 that way before, why did we even need the legislation in the first place? So I think let's be
22 careful about getting ahead of ourselves. Which brings me back to the point I just wanted to
23 make sure that if this is based on the well operator's title work and it's a representation in the
24 petition based on their title work, the coal companies are not CBM owners, I believe the Board
25 has full authority to act on that petition. That's why I was asking the pointed question, 'What are
26 you asking the Board to do?'

27 **Mark Swartz**: Essentially, we are telling the Board, in our opinion, we don't think we need to
28 escrow this money anymore. For the reasons that we are discussing. And if that's the case, you
29 know... and we believe that it is, you know. You can expect us to be back here in the next month
30 or two, giving notice to the coal owners, saying 'We are going to ask the Board to pay money out
31 of escrow, to oil and gas owners, and to the extent you still think you have a claim to that money,
32 you need to show up and you need to complain about it.' Okay? So, that's not happening today.
33 But you know, this kind of approach...title hasn't changed or I don't want to define all that's
34 changed, but it's become clear. And I think all of us know that and we need to recognize that
35 moving forward.

36 **Donnie Ratliff**: But in your due diligence, you have identified these companies after looking at
37 either lease or titles, that they don't have a claim?

1 **Mark Swartz**: They, in our opinion, they do not... they are not in conflict with the oil and gas
2 owners to the extent that we've done the title work. We see nothing to suggest that we should be
3 escrowing oil and gas money, for tying up oil and gas money for people that have simple
4 severance deeds. And we... our title work after Belcher, there was an effort (which is pretty
5 majorly time-consuming effort) to look at the court severance deeds that are at issue in this unit
6 and other units to see if there was really some reason to be concerned. And you know, if our due
7 diligence in terms of running title for coal... because we have to know who the coal owners are
8 because we have to tell them. You know, that law has not changed. But if in doing that, we
9 conclude that there is something special about their... or for example, this new statute which is
10 not [inaudible] it says that if there is a pending lawsuit, that's a reason.

11 **Donnie Ratliff**: Right.

12 **Mark Swartz**: And obviously, if we were aware of any lawsuit, we would tell these folks, you
13 know. We are essentially telling you, based on our title work, we do not think escrow is required,
14 because we do not see an oil and gas/coal conflict. That's what we're telling you. If you don't
15 agree with us, that's why we've done these notices. If you don't agree with us, today is your day
16 to come forward and say 'No, we think we have some special situation, that does not justify this.'
17 And they are going to get a second chance because there's money in escrow. So they are going to
18 be noticed again. But that's what we are telling you. We are not telling you that we are courts
19 and that we can make special determinations.

20 **Donnie Ratliff**: I understand.

21 **Mark Swartz**: You know, you can't either. But our work tells us that this is an appropriate
22 situation to not require escrow, because we don't see a conflict.

23 **Donnie Ratliff**: Questions from the Board?

24 **Donnie Rife**: One moment, Mr. Chairman. I just don't think that, with the number of board
25 members that we've got here, I just don't think that this is a decision we need to make today. I
26 think this probably needs to be tabled, when we could set down and look at it a little bit by the
27 full Board and make a determination based on that.

28 **Donnie Ratliff**: But we make all of our determinations on ownership and title work off of their
29 testimony, under oath. And they are testifying that these companies, after their title work, they
30 can't find a conflict and a reason to pool them.

31 **Mark Swartz**: That's what we're telling you.

32 **Paul Kugelman**: And if it helps, sir. If the collective wisdom of the Board later determines that
33 that's not a wise course, we're not stuck with the precedent. Although, I will, as council to the
34 Board, that based on what is being presented, the Board is not being asked to make a

1 determination on ownership, just to accept that the title work that the operator's providing,
2 indicates that there is no conflict requiring the royalties to be escrowed.

3 **Donnie Ratliff**: And we do that every month.

4 **Mark Swartz**: Right.

5 **Donnie Rife**: Okay.

6 **Bruce Prather**: Are we sure that we are the Board that needs to determine this? That's my
7 problem. I mean are ... since we can't look at deeds, and we can't look at leases, are we the
8 people who want to make this decision? I have a problem ...

9 **Bill Harris**: I'm not sure if I see any difference between the determination here as we would any
10 other person who walked up and said 'Hey, I own...

11 **Mark Swartz**: Correct.

12 **Bill Harris**: 'and I own... I should have a part of it.' And you all would research if I had mineral
13 rights. I'm not sure that there's any difference. These just happen to be coal companies in this
14 case.

15 **Mark Swartz**: The mechanism... the way the statute and the regulations sort of allocate the
16 burden... it's just the same. You know, the operators are required to come forward, and under
17 oath and with exhibits in writing, tell the Board what they think the situation in that unit is. And
18 sometimes you find issues and questions and mistakes, and we talk about that, and we address
19 them. But month after month, that responsibility rests with the operators and absent some
20 obvious problem to you all... you do that every month! I mean you are taking that testimony and
21 that work and you are implementing it. And this is really no different than what you did last
22 month. It's just relying on the operators to get it right.

23 **Donnie Ratliff**: Any other questions? You may proceed.

24 **Mark Swartz**: Okay other than this unit... this unit is obviously subject to our earlier pool.
25 Other than some revisions with regard to the tract percent sizes and tract... and other than
26 dealing with the developments in the law that cause us now to think that escrowing is not
27 required going forward, are there any other changes on this re-pool? Are we adding a well?

28 **Anita Duty**: The additional well.

29 **Mark Swartz**: We are adding a well, okay, and that would... would that be the total collection
30 then of differences?

31 **Anita Duty**: Yes.

32 **Mark Swartz**: So then the new well, the W47A is the third change, then.

1 **Anita Duty**: Yes.

2 **Mark Swartz**: And obviously, we've provided that information in the application, correct?

3 **Anita Duty**: Yes, we have.

4 **Mark Swartz**: And then my last couple of questions would be, is this second well, in your
5 opinion, a reasonable development methodology to increase production from this unit?

6 **Anita Duty**: Yes.

7 **Mark Swartz**: And with regard to the... if a revised pooling order is entered here, is it your
8 opinion that the correlative rights of all the owners and claimants will be protected if you
9 consider that order in the context of the interest that your company is acquiring?

10 **Anita Duty**: Yes.

11 **Mark Swartz**: That's all I have, Mr. Chairman.

12 **Bill Harris**: Let me just ask a question about notice.

13 **Mark Swartz**: Okay.

14 **Bill Harris**: So going forward, if there were a coal company that you deemed, based on your
15 review, that would not have an interest, they would not get noticed.

16 **Mark Swartz**: No, they will get noticed every time. If you look at this handout that I gave you
17 with three pages. Go down to the very bottom...

18 **Anita Duty**: Are you on page one?

19 **Mark Swartz**: 361.19. See that? At the very bottom?

20 **Anita Duty**: Yes.

21 **Mark Swartz**: Okay it says. And this is why I answered your question the way I did. 'Any
22 person who applies for a hearing in front of the Board, pursuant to the provisions of...' and those
23 include force pooling, okay?

24 **Anita Duty**: Okay.

25 **Mark Swartz**: 'shall simultaneously, with the filing of such application, provide notice...' and
26 now I've left part of it off. Um... I will find that somewhere else because coal owners are on the
27 list. Obviously some of it got cut off. Hold on, let me just hop on the website and I can read that
28 to you. I see why you asked. Sorry about that. [Long pause] On your website, Rick, where is
29 your... where's the link to the code?

1 **Rick Cooper**: You are on the right page, it should be the Laws and Regulations...

2 **Mark Swartz**: Oh, there it is. Alright. There we go. Okay Mr. Harris I've actually found it on
3 the website, so I can read it to you. 'Any person...' (this is the part you have) 'who applies for a
4 hearing in front of the Board, pursuant to the provisions of...' and it lists the provisions that
5 apply to force-pooling... 'shall simultaneously with the filing of such application, provide notice
6 by certified mail, return receipt requested...' and this is the list... 'to each: gas or oil owner, coal
7 owner, or mineral owner, having an interest underlying the tract which is the subject of the
8 hearing.' So to answer your question, will coal owners still get notice of pooling applications?
9 They will. Because the notice provision in the Virginia Code says if you... if someone...if a
10 mineral owner or a coal owner has an interest in one of the tracts in that unit, they get noticed. So
11 they will continue to get noticed. They will not, obviously, be listed as someone to be pooled,
12 however.

13 **Bill Harris**: But you know, just that language saying 'having an interest,' does that not obligate
14 you all to... and I guess that's the way the statute had been written...or the requirements had
15 been written. To notify them to include them... well I'm not sure if I'm...

16 **Mark Swartz**: I think to go back, when the legislature was dealing with this in 89 and 90.
17 Obviously, they had the same problem that we had once they passed the law. Nobody knew
18 between coal and oil and gas, who was going to ultimately prevail, okay? And you could say that
19 they may have had that on their radar, so they included, you know... them. But they also got 'or
20 mineral owner,' I mean in theory, if there's other mineral owners out there, you gotta notify
21 them, as well. So I think this was more of a...if you are going to be interfering with a resource on
22 a tract that has multiple owners, it probably makes sense to tell all of them in a notice. So I have
23 always sort of looked at 361.19 as a... whoever may have an interest in this...

24 **Bill Harris**: Blanket...

25 **Mark Swartz**: Or tract. Not the particular mineral. Not the whole unit.

26 **Bill Harris**: No.

27 **Mark Swartz**: And that's the way we've deployed this and until this statute's modified, coal
28 owners are going to get noticed, but when you look at the B-3, when you look at the list of
29 people we are going to pool, they are not gonna be on that list anymore. Because we are not
30 going to indulge in that presumption that they are.

31 **Paul Kugelman**: But again, just to loop it back around... they will get notice, and if they want to
32 come in and assert it, they will have the opportunity.

33 **Mark Swartz**: Absolutely.

34 **Paul Kugelman**: So.

1 **Mark Swartz**: And that's... you know... now if they change the statute, maybe. I'm not sure
2 they're going to, but you know, until that statute changes, they are entitled to a notice and they
3 are going to get it.

4 **Donnie Ratliff**: Any other questions? Staff have anything?

5 **Rick Cooper**: None.

6 **Donnie Ratliff**: Do you have anything else, Mr. Swartz?

7 **Mark Swartz**: No.

8 **Donnie Ratliff**: We act on a motion, gentlemen.

9 **Bill Harris**: Mr. Chairman, I will make a motion that we approve the petition, as presented.

10 **Donnie Ratliff**: Do we have a second?

11 **Donnie Rife**: I second.

12 **Donnie Ratliff**: We have a motion to second. Any further discussion? All those in favor, say
13 'Aye.'

14 **Board**: Aye.

15 **Donnie Ratliff**: Opposed, no? Petition passes. Let's take a 10 minute break.

16

17 **Item Number 12**

18 **Donnie Ratliff**: We will go back on the record and call Item 12. Is that right? A petition from
19 CNX Gas, LLC., for re-pooling and dismissal of certain coal claimants as conflicting claimants.
20 Unit Q-48. Docket Number VGOB 00-0418-0790-01. All parties wishing to speak, please come
21 forward.

22 **Mark Swartz**: Mark Swartz and Anita Duty.

23 **Donnie Ratliff**: You may proceed.

24 **Mark Swartz**: Thank you. Mr. Chairman, if you could incorporate Anita's prior testimony with
25 regard to the applicant and operator [inaudible] and standard lease terms, I'd appreciate it.

26 **Donnie Ratliff**: We can do that.

27 **Mark Swartz**: Thank you.

28 **Donnie Ratliff**: Thank you.

1 **Mark Swartz**: Anita, you state your name for us again.

2 **Anita Duty**: Anita Duty

3 **Mark Swartz**: Who do you work for?

4 **Anita Duty**: CNX, Land LLC.

5 **Mark Swartz**: And we're here with regard to Docket Item 12 concerning Unit Q-48, correct?

6 **Anita Duty**: Yes.

7 **Mark Swartz**: And that unit is what kind of a unit?

8 **Anita Duty**: It is an Oakwood.

9 **Mark Swartz**: How many acres?

10 **Anita Duty**: 80 acres.

11 **Mark Swartz**: And this is a re-pooling?

12 **Anita Duty**: Yes.

13 **Mark Swartz**: And it's also a request similar to the one we just discussed, the W47. A request to
14 dismiss the coal claimants. Correct?

15 **Anita Duty**: Yes.

16 **Mark Swartz**: Okay, what did you do to notify people, including the coal claimants that we're
17 going to have a hearing today?

18 **Anita Duty**: Mailed by certified mail, return receipt requested on January 16, 2015. I published
19 the notice and location map in the *Bluefield Daily Telegraph* on January 23, 2015.

20 **Mark Swartz**: And with regard to the interest that the applicant has been able to acquire in this
21 unit, what is that percentage and what are you seeking to pool?

22 **Anita Duty**: We acquired 100% of the coal owner's claim, 91.9125% of the oil and gas owner's
23 claim, seeking to pool 8.0875% of the oil and gas owner's claim.

24 **Mark Swartz**: And they...those oil and gas owners that received the pool on this re-pooling are
25 listed on Exhibit B-3, correct?

26 **Anita Duty**: Yes.

27 **Mark Swartz**: Okay, how many wells are in this unit?

1 **Anita Duty**: Two.

2 **Mark Swartz**: Let's look at the plat here. And we've got...it looks like both of them are in the
3 drilling window?

4 **Anita Duty**: Yes.

5 **Mark Swartz**: Have they both already been drilled?

6 **Anita Duty**: Yes.

7 **Mark Swartz**: And what is the cost information... strike that. Have you provided cost
8 information with regard to both of these?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: And the initial well was what... cost what?

11 **Anita Duty**: \$233,614.00 but the...

12 **Mark Swartz**: You said... oh I'm sorry, you said...233,614 Okay, and to a depth of what?

13 **Anita Duty**: 2,090 feet.

14 **Mark Swartz**: Permit Number...

15 **Anita Duty**: 4407.

16 **Mark Swartz**: And that one's been drilled?

17 **Anita Duty**: Yes.

18 **Mark Swartz**: Okay and then the second well is... the cost estimate on that is what?

19 **Anita Duty**: \$360, 386.00. Estimated depth 2,500 feet, well depth. Permit 12571.

20 **Mark Swartz**: Okay, and has that one been drilled, as well?

21 **Anita Duty**: Yes.

22 **Mark Swartz**: Do you want to add any respondents today?

23 **Anita Duty**: No.

24 **Mark Swartz**: Do you want to dismiss anyone?

25 **Anita Duty**: No.

1 **Mark Swartz**: Okay, let's look at...well actually we do have an Exhibit B-2 with regard to...for
2 some reason or other, Hurt McGuire...

3 **Anita Duty**: That's the...

4 **Mark Swartz**: Just the dismissal of coal owners?

5 **Anita Duty**: Yes.

6 **Mark Swartz**: Well let's go back, then, to the application...sort of work through this. In this
7 application you are seeking to re-pool the unit. And what's the reason for that?

8 **Anita Duty**: Mapping revisions.

9 **Mark Swartz**: Okay, and the second well...or was that already...

10 **Anita Duty**: Uh, yes, the second well.

11 **Mark Swartz**: Okay so... and that, those are the two reasons to re-pool?

12 **Anita Duty**: Yes.

13 **Mark Swartz**: And you presumably have changed the percentages and the tract...or and the plat
14 map to reflect the mapping changes?

15 **Anita Duty**: Yes.

16 **Mark Swartz**: Okay, and then the second piece of the relief sought is the dismissal of
17 respondents named in this paragraph as respondents and as conflicting claimants and who is that?

18 **Anita Duty**: Hurt-McGuire Land Trust.

19 **Mark Swartz**: And they are listed in the Exhibit B-2, correct?

20 **Anita Duty**: Yes.

21 **Mark Swartz**: Okay, and then the people to be re-pooled are listed in paragraph seven, and
22 that's a longer list, correct?

23 **Anita Duty**: Yes.

24 **Mark Swartz**: And those are gas owners.

25 **Anita Duty**: Yes.

26 **Mark Swartz**: And then we...notice of hearing, we've seen this before but in the Notice of
27 Hearing we actually tell in the notice what the relief sought is going to be and it's just the same
28 as it is in the application.

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And then we have also added a paragraph, the last paragraph of the notice
3 talking, or addressing the opportunity that coal owners would have today, to argue the point. To
4 argue dismissal.

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And if we go to the exhibits, we have an Exhibit B and on Exhibit B listed all of
7 the owners. So under 361.19 we have got the coal owners and we've got the oil and gas owners,
8 correct?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And those are the people that you provided notice to?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And then if we go forward in the application we will get to Exhibit B-3, which is
13 at page 14 I think, of the PDF. And is that where you have listed the oil and gas owners you are
14 seeking to re-pool?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Okay, and now we have 14 and 15 are the well cost estimates, the original one
17 and the new one.

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And we've got actually to have an escrow requirement going forward here,
20 because we've got somebody that's unknown.

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And you've provided an Exhibit E in that regard.

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And then you have also provided the Board with your due diligence. Your proofs
25 of mailing and proof of publication, correct?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** And a backup for that.

28 **Anita Duty:** Yes.

1 **Mark Swartz**: Okay and in terms of the Board Order here, in the event that this pooling
2 application is approved, we're gonna have some money in escrow, correct?

3 **Anita Duty**: Correct.

4 **Mark Swartz**: And the order should provide that that money stays in escrow pending further
5 disposition... or further order by the Board. We're not seeking to get that paid out today.

6 **Anita Duty**: Correct.

7 **Mark Swartz**: So with regard to royalties accruing after today, we would like to pay the oil and
8 gas owners directly, rather than escrowing those funds, correct? If there are any of them in
9 conflict. Because we're resolving a conflict.

10 **Anita Duty**: We have to come back.

11 **Mark Swartz**: No, no. In terms of payments in the future. Royalty payments in the future.

12 **Anita Duty**: Oh, Okay.

13 **Mark Swartz**: Not out of escrow.

14 **Anita Duty**: Okay.

15 **Mark Swartz**: Let's start over.

16 **Anita Duty**: Okay.

17 **Mark Swartz**: We have money in escrow.

18 **Anita Duty**: Yes.

19 **Mark Swartz**: That money is going to stay in escrow. We are not requesting the Board do
20 anything with the existing escrow account.

21 **Anita Duty**: Correct.

22 **Mark Swartz**: Today.

23 **Anita Duty**: Yes.

24 **Mark Swartz**: But with regard to future royalties, after today, payable to the oil and gas people
25 in Exhibit B3. We are requesting the ability as the operator to pay them directly in the future.

26 **Anita Duty**: Yes.

27 **Mark Swartz**: Okay, and with regard to the last couple of questions, is it your opinion that
28 drilling a second well in this unit, in the location indicated, is a reasonable development plan?

1 **Anita Duty**: Yes.

2 **Mark Swartz**: And is it your opinion that if the Board combines a pooling order, re-pooling this
3 unit, with the... and you combine that with the interest that the operator has acquired...the
4 correlative rights of all gas and oil owners and claimants to the CBM will be upheld.

5 **Anita Duty**: Yes.

6 **Mark Swartz**: That's all I have, Mr. Chairman.

7 **Donnie Ratliff**: Mr. Swartz, they still have participation rights, because you have changed the
8 mapping?

9 **Anita Duty**: Yes.

10 **Donnie Ratliff**: Any questions from the Board?

11 **Bill Harris**: Let me ask you a question. Let me ask you a question about the due diligence
12 information. I see a lot of USPS (postal service) documents here. Are these... and I see copies
13 from the green cards. And then I see a lot of these documents...the tracking info. What's the
14 purpose for that? Are these folks that have not picked up the certified mail? And have not
15 returned the green cards? And is this your way of... I'm probably answering this for you...is this
16 your way of showing that you all did mail it to them?

17 **Anita Duty**: Right. If we don't actually physically get the green card back, then we will go out
18 there and check the status on the website.

19 **Bill Harris**: Have you all done this... I mean I hadn't noticed this ... had ya'll done this for
20 some time or...

21 **Anita Duty**: Yes. I think before...you know that wasn't actually scanned in. Or we didn't
22 provide copies of those to you all.

23 **Bill Harris**: Oh, Okay.

24 **Anita Duty**: I think they're included as part of the package now.

25 **Bill Harris**: Okay, okay.

26 **Anita Duty**: Yeah, we've always done that. And if we don't get the green card, we at least go
27 out...because sometimes they get lost in the mail or...

28 **Bill Harris**: But this certifies that you at least mailed it to them and...

29 **Anita Duty**: Yes, we just go in and type in our certified number in that we've recorded, that
30 that's the way we sent it and the USPS will have record of it.

1 **Bill Harris**: The status...

2 **Anita Duty**: Even though we don't physically have that green card.

3 **Bill Harris**: Okay, Thank you.

4 **Mark Swartz**: And the reason it looks new to you, is it wasn't included in the package until

5 recently.

6 **Bill Harris**: Yeah, I just wondered why. It makes sense though. Thank you.

7 **Donnie Ratliff**: Any other questions? Staff have anything?

8 **Rick Cooper**: No.

9 **Donnie Ratliff**: We operate on a motion.

10 **Donnie Rife**: Motion made, Mr. Chairman.

11 **Donnie Ratliff**: Do I have a second?

12 **Bill Harris**: I'll second.

13 **Donnie Ratliff**: We have a motion to second. All those in favor say 'Aye'.

14 **Board**: Aye.

15 **Donnie Ratliff**: I'll abstain.

16

17 **Item Number 13**

18 **Donnie Ratliff**: Call Item Number 13. A petition from CNX Gas Company, LLC., for re-pooling

19 and dismissal of certain coal claimants as conflicting claimants. Unit AY123. Docket number

20 VGOB 06-0117-1559-01. All parties interested please come forward.

21 **Mark Swartz**: Mark Swartz and Anita Duty.

22 **Donnie Ratliff**: You may proceed.

23 **Mark Swartz**: I think you've got some other people that need to identify themselves, as well.

24 **Rick Cooper**: I can help you out, Mr. Christian, you can identify yourself on the record there,

25 and I can get these for you.

26 **Zane Dale Christian**: Thank you.

27 **Rick Cooper**: Okay, you've got more.

1 **Zane Dale Christian**: Three more for you.

2 **Rick Cooper**: Thank you, sir.

3 **Donnie Ratliff**: You may proceed, Mr. Swartz.

4 **Mark Swartz**: If I could have a moment to sort of check where they fall and uh...

5 **Sarah Gilmer**: Mr. Long, do you swear and affirm that your testimony is the truth, the whole

6 truth and nothing but the truth?

7 **Warren Long**: Yes, I do.

8 **Mark Swartz**: Anita, could you state your name for us please?

9 **Anita Duty**: Anita Duty.

10 **Mark Swartz**: And who do you work for?

11 **Mark Swartz**: Anita, could you state your name for us please?

12 **Anita Duty**: CNX Land, LLC.

13 **Mark Swartz**: Mr. Chairman, I would ask that you incorporate Anita's prior testimony today,

14 with regard to the applicant and operator, her employment with CNX and the standard lease

15 terms.

16 **Donald Ratliff**: That will be done.

17 **Mark Swartz**: Thank you. Anita this is an application regarding which unit?

18 **Anita Duty**: AY-123.

19 **Mark Swartz**: And what are we seeking to accomplish today?

20 **Anita Duty**: A re-pooling and dismissal of coal claimant.

21 **Mark Swartz**: And the reason for the re-pooling is what?

22 **Anita Duty**: It's due to property revision.

23 **Mark Swartz**: I'm sorry?

24 **Anita Duty**: Property change.

25 **Mark Swartz**: Okay, and have you reflected the changes in lines and percentages on both the

26 plat map and the exhibits there, too?

27 **Anita Duty**: Yes.

1 **Mark Swartz**: And in addition, we are seeking to clean up the escrow account by dismissing
2 coal claimants, correct?

3 **Anita Duty**: Yes.

4 **Mark Swartz**: Okay, what did you do to notify people that we were going to have a hearing
5 today?

6 **Anita Duty**: Mailed by certified mail, return receipt requested, on February 13, 2015. And
7 published the notice and location map in the *Bluefield Daily Telegraph* on February 14, 2015.

8 **Mark Swartz**: And you filed those records online with the DGO, correct?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: Okay, and they should be in the Board's packet today, as well. What is the
11 interest that the applicant has been able to acquire in this unit?

12 **Anita Duty**: We have acquired 100% of the coal owner's claim. 96.91% of the oil and gas
13 owner's claim to CBM. Seeking to pool 3.0309% of the oil and gas owner's claim.

14 **Mark Swartz**: Okay, and there are how many wells in this units? Or proposed for this unit?

15 **Anita Duty**: Two.

16 **Mark Swartz**: And looking at the plat, we have 58.74 acre Middle Ridge unit, correct?

17 **Anita Duty**: Yes.

18 **Mark Swartz**: And it looks like AY-123 is at the bottom edge of the drilling window?

19 **Anita Duty**: Yes.

20 **Mark Swartz**: And AY-123A is inside, presumably, the western edge?

21 **Anita Duty**: It is.

22 **Mark Swartz**: Okay, is that intended to depict the fact that it's inside the window?

23 **Anita Duty**: Yes.

24 **Mark Swartz**: Okay, and have you provided cost information with regard to these two wells?

25 **Anita Duty**: Yes.

26 **Mark Swartz**: And what is that?

1 **Anita Duty**: For Well AY-123, the cost is \$241,775.22. Depth 2,432.7 feet. Permit Number
2 6475.

3 **Mark Swartz**: Okay.

4 **Anita Duty**: Well AY-123A, the cost is \$359,305.00. Depth 2,500 feet. Permit Number 12153.

5 **Mark Swartz**: And it looks like both of those wells are drilled.

6 **Anita Duty**: Yes.

7 **Mark Swartz**: They are both frac wells?

8 **Anita Duty**: Yes.

9 **Mark Swartz**: Do you want to add any people as respondents today?

10 **Anita Duty**: No.

11 **Mark Swartz**: Do you want to dismiss anyone other than the coal owners that we will be talking
12 about in a moment?

13 **Anita Duty**: No.

14 **Mark Swartz**: And at page 11, you've provided Exhibit B, correct?

15 **Anita Duty**: Yes.

16 **Mark Swartz**: And on that, you listed all of the folks under the tracts at issue?

17 **Anita Duty**: Yes.

18 **Mark Swartz**: And then, in Exhibit B-3, page 27 I think...Exhibit B-2 commences at PDF page
19 48, correct?

20 **Anita Duty**: Yes.

21 **Mark Swartz**: And you say that B-2 is a list of people we are proposing... the coal owners that
22 we are proposing to dismiss today, correct?

23 **Anita Duty**: Yes.

24 **Mark Swartz**: And that goes on also, for pages, I would assume. Okay and you have listed
25 them...the coal owners by tract...

26 **Anita Duty**: Yes.

27 **Mark Swartz**: And the acreages and the reason for dismissal...and the reason is coal owner.

1 **Anita Duty**: Correct.

2 **Mark Swartz**: And then we get eventually to Exhibit B-3, which is going to be a while. Exhibit
3 B-3 commences at page 65 of the PDF, right?

4 **Anita Duty**: Yes.

5 **Mark Swartz**: And Exhibit B-3 is a list of the people that we are seeking to pool, or re-pool,
6 correct?

7 **Anita Duty**: Correct.

8 **Mark Swartz**: And that is a list that commences with oil and gas owners?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: And the tracts that we do not have fully leased, or not acquired the interest.

11 **Anita Duty**: Correct.

12 **Mark Swartz**: And Exhibit B-3 goes on and is basically a three page exhibit, right?

13 **Anita Duty**: Right.

14 **Mark Swartz**: And it indicates at the end, it always gives us a total of the acreage on the third
15 page of the B-3. It gives us a total of the acreage in the unit that is unleased. And it's 1.78 acres.

16 **Anita Duty**: Yes.

17 **Mark Swartz**: And percentage, which you gave us earlier, which is 3.309%.

18 **Anita Duty**: Yes.

19 **Mark Swartz**: And we are seeking to pool...those are the people we are seeking to re-pool.

20 **Anita Duty**: Yes.

21 **Mark Swartz**: Okay, and then with regard to escrow, it looks like there is no... there are no
22 unknowns, or no reason to escrow going forward, correct?

23 **Anita Duty**: Correct.

24 **Mark Swartz**: And...but we do have a bunch of split agreements, which you have identified in
25 an Exhibit EE.

26 **Anita Duty**: Yes.

1 **Mark Swartz**: Okay, and with regard to the order here, we need to...well let's go to Exhibit E.
2 So it does look like there's some specific E issues to deal with. Obviously, for the existing
3 escrow account.

4 **Anita Duty**: Right.

5 **Mark Swartz**: Okay, so you provided...Okay, so starting at page 71, you have provided the
6 Board with a revised Exhibit E, correct?

7 **Anita Duty**: Yes.

8 **Mark Swartz**: And this Exhibit E addresses the existing, or pre-existing escrow account.

9 **Anita Duty**: It does.

10 **Mark Swartz**: So there's money in an escrow account that was opened when this unit was
11 originally pooled?

12 **Anita Duty**: Yes.

13 **Mark Swartz**: That we need to deal with at some point.

14 **Anita Duty**: Yes.

15 **Mark Swartz**: But we are not seeking to deal with that today.

16 **Anita Duty**: Correct.

17 **Mark Swartz**: That will require a return trip.

18 **Anita Duty**: Yes. At least one.

19 **Mark Swartz**: But we are, with regard to royalty, seeking a Board Order if this unit is re-pooled,
20 that on a going forward basis, royalties earned or on production after today, that the operator
21 would be allowed to pay that directly to the people on Exhibit B-3, rather than escrowing it going
22 forward.

23 **Anita Duty**: Yes.

24 **Mark Swartz**: Obviously, we have some coal owners objecting, which may cause that to change
25 a bit going forward. But depending on what the Board does with that. But hey, absent some
26 objection, or conclusion by the Board that we need to escrow going forward on some basis, your
27 request to the Board is to preserve the funds currently escrowed, and to allow the operator to pay
28 the funds... the royalties on production in the future, directly to the gas and oil owners.

29 **Anita Duty**: Correct.

1 **Mark Swartz**: Okay, and is there a caveat in regard to the escrow account that we have money
2 in escrow for people who have entered into split agreements?

3 **Anita Duty**: We do, and we haven't received a W-9 from them, so we've divided that off into
4 two sections.

5 **Mark Swartz**: And that's reflected in your exhibits so the Board knows that there is still money
6 in escrow that is awaiting a disbursement based on split agreements?

7 **Anita Duty**: Correct.

8 **Mark Swartz**: And we're not here about that either, other than to indicate to the Board that
9 that's coming, as well.

10 **Anita Duty**: Correct.

11 **Mark Swartz**: With regard to ...lastly is drilling a second well in this Middle Ridge Unit, in
12 your opinion, a reasonable development activity?

13 **Anita Duty**: Yes.

14 **Mark Swartz**: Is it your view that if we combine a revised pooling order, with the agreements
15 and leases and acquisitions that the operator has made, the correlative rights of all the gas and oil
16 owners and CBM owners would be protected?

17 **Anita Duty**: Yes.

18 **Mark Swartz**: That's all I have.

19 **Donnie Ratliff**: Any questions from the members of the Board? Mr. Christian. [Pause] Mr.
20 Christian?

21 **Zane Dale Christian**: Yes, sir.

22 **Donnie Ratliff**: You may proceed.

23 **Zane Dale Christian**: I'm Zane Dale Christian, attorney, from Bluefield, Virginia, and I'm here
24 to represent Rita Carrol Jackson, Linda Sharon Jackson and Victoria Lynn Hyatt. Those three
25 ladies are owners of the oil and gas in the relief... in the AY-123 as I interpret it. And the relief
26 being sought is the re-pooling, and dismissal of certain coal claimants, as conflicting claimants.
27 Well, they have never sold or leased their interest in Unit AY-123 or any other tract in Russell
28 County. And they are not ... and they are not a party to any royalty agreement. And the ten acres
29 that are listed, that they own the oil and gas and coal rights in, appears to be right in the center of
30 Tract AY-123. So the fact that they own the coal would not give reason to dismiss them as
31 respondents in the oil and the gas. Which is the relief that the...CNX Gas Company, is seeking
32 here. So we voice our objection to being dismissed as respondents, co-respondents.

1 **Donnie Ratliff**: Mr. Swartz are his clients listed?

2 **Paul Kugelman**: Yes, they are.

3 **Mark Swartz**: They are listed in the notice as coal owners. And they are...the ten acre tract that
4 they are talking about is...if you go to the Tract Identifications...3A, 3B and 3C...our title work
5 shows that the 10 acre tract is a coal-only tract and that the gas owners in 3A, 3B and 3C are
6 Steve Wayne Robinson (surface, oil and gas), Ralph J. Childress, et al. (surface, oil and gas) and
7 Commonwealth of Virginia (surface, oil and gas) for 3C. So our title work indicates...to the
8 extent that we don't have leases for those people we're seeking to pool them... but we are
9 probably pooling the Commonwealth, as we usually do...but our title work indicates to us that
10 these folks own coal only and we have identified the oil and gas owners that we are seeking to
11 pool and pay. So I guess my question would be, you are here telling us that you own oil, gas and
12 coal and I would like to see a deed or you know, not that we're going to pass on that, but some
13 evidence that there is a lawsuit pending, or that there's a deed or there's something.

14 **Donnie Ratliff**: Mr. Christian, do you have a copy of the deed or title?

15 **Donnie Rife**: Do you have a copy of the deed or title?

16 **Zane Dale Christian**: I fail to see...and there's no reason given...why be dismissed as a co-...
17 as a respondent to the oil and gas simply because they have an interest in the coal? They are two
18 different things. I mean we have oil and gas...they can drill for oil and gas. And we have the
19 mining... and they mine for coal. I don't... and they've give no reason for they're being
20 dismissed as a respondent to the gas.

21 **Donnie Rife**: Do you have a copy of the deed?

22 **Zane Dale Christian**: I have a...the map. I obtained my information here from this map. That
23 was sent with this.

24 **Paul Kugelman**: Okay, we have the plat Mr. Christian.

25 **Zane Dale Christian**: I gathered my information from is the map that they used...on their map
26 that they present here, they show this tract of land and my clients have inherited... they are heirs
27 to this oil and gas in that tract and I don't believe they would deny that.

28 **Paul Kugelman**: Actually sir, if I could ask some questions. Mr. Christian...

29 **Zane Dale Christian**: Yes, sir.

30 **Paul Kugelman**: Hey, how are you? Actually, they kind of have...well they don't kind of
31 have...they have denied it. They have said that based on their title work, that your clients own
32 the coal in that tract, but not the gas. Or the oil. We are here on a coalbed methane well. Do you
33 have any evidence that indicates that your clients own the gas interest in that tract of land?

1 **Zane Dale Christian**: As stated before, sir, we received...my clients received notice of this
2 hearing last Thursday. If...I didn't search the titles to see. That will be up to them and I would
3 think they will claim it.

4 **Paul Kugelman**: Well it's up to them...

5 **Zane Dale Christian**: Are you all claiming that they don't own the gas and oil right here? Are
6 you claiming that?

7 **Mark Swartz**: Correct! It's a coal tract. It's a ten acre coal tract, as far as our title work
8 indicates. And that's why we noticed you, and other people, if you think that you own something
9 more than coal, or as a coal owner, you have a claim, you need to come here and show us
10 something.

11 **Zane Dale Christian**: Well, are... are you going to develop this in coal...in oil and gas... or gas
12 wells? Or drill gas wells? That's your intention?

13 **Mark Swartz**: Two coalbed methane wells.

14 **Zane Dale Christian**: Well... gas is gas. It's coal methane gas, but you are going to drill for gas,
15 correct?

16 **Mark Swartz**: Coalbed methane gas.

17 **Zane Dale Christian**: Well, if it's coal and methane gas...are you stating that you've done a title
18 search and they don't own the gas?

19 **Mark Swartz**: We've done a title search...

20 **Zane Dale Christian**: They only own the coal?

21 **Mark Swartz**: We've done a title search to identify all coal owners and all gas and oil owners
22 and our title search does not show your clients as having an oil and gas as interest in that ten acre
23 tract. Coal only.

24 **Paul Kugelman**: Mr. Christian, it may be helpful to understand the basis for...

25 **Zane Dale Christian**: I would respectfully ask that the court tend to allow us to do a title search
26 or give me a...give us a certain number of days to see if they are correct and they don't own this
27 gas, because it's news to us.

28 **Paul Kugelman**: But I just want to make sure, for the Board's edification, that we are clear here.
29 Are you asserting that your clients own the gas because they own the coal? Or are you asserting
30 that your clients own the gas because they own the gas?

31 **Zane Dale Christian**: My clients own both because...

1 **Paul Kugelman**: Okay, you are saying they own both. I understand now.

2 **Zane Dale Christian**: But they never sold either.

3 **Paul Kugelman**: I understand.

4 **Zane Dale Christian**: Minerals period, they've never sold any mineral rights, which includes
5 gas, oil and coal. The three.

6 **Bruce Prather**: Didn't you say this was an heirship?

7 **Zane Dale Christian**: And I would challenge them to show where... a title search where they
8 can show that it was sold...

9 **Mark Swartz**: We will have the severance deed momentarily.

10 **Donnie Rife**: Can they produce the internet?

11 **Mark Swartz**: We will have the severance deed in a minute or two. It's coming in by email.

12 **Paul Kugelman**: Thank you.

13 **Donnie Rife**: You are getting email in here?

14 **Donnie Ratliff**: They've got better stuff than we do.

15 **Donnie Rife**: Apparently.

16 **Mark Swartz**: I could sell you access on a temporary basis. A hot spot, you know. But we
17 should have a severance deed momentarily. Of the coal.

18 **Rick Cooper**: Mr. Chairman, just for your information, Mr. Long is not being represented by
19 Mr. Christian (the other gentleman there). He's not being represented by Mr. Christian. He is
20 wants to speak, also.

21 **Donnie Ratliff**: Thank you.

22 **Mark Swartz**: Anyway, well go ahead.

23 **Donnie Ratliff**: Go head, Mr. Long.

24 **Warren Long**: Okay, I've got this, and I actually had a retired judge from Atlanta's Court of
25 Appeals look at this and give his opinion. And he said pretty much, that he believes that the
26 Relief Sought because of re-pooling and dismissal of coal claimants as conflicting claimants, that
27 I have no conflict, do the fact that again, the way the property is, there was no interest on that.
28 See I am listed, both by my grandmother (as being the one that had with the coal) and then I'm

1 listed as my... on the pooled interest as my grandfather, who has... is going to be pooled because
2 of the gas.

3 **Paul Kugelman**: That's right.

4 **Warren Long**: And as such, there's no conflict. Judge [inaudible] down in Atlanta, he was with
5 the Atlanta Court of Appeals, then he retired. Jerome [inaudible] he says that there should be no
6 disagreement by me being dismissed, due to the fact that I'm not contending that... and he gave
7 me the... where I went to [inaudible] about the Harrison and Wyatt decision, that has to do to
8 determine that one mineral asset is completely different than another mineral asset. And that one
9 party owner to a mineral asset cannot impede, [inaudible] or defraud another of the right to
10 procure their legal title for that asset.

11 **Paul Kugelman**: Mr. Long, maybe I can shortcut this and...

12 **Warren Long**: Yeah. Mainly all I'm saying is, where I'm listed on the different ones, I don't
13 think that should be dismissed, due to the fact that I live as an heir, to both my grandparents,
14 Bascom Keene and my grandmother, Ada [inaudible] Vance. Vance Keene. And it's listed here
15 on the different exhibits, should be dismissed.

16 **Paul Kugelman**: I think that maybe you under... misunderstand what the dismissal actually
17 means. Mr. Swartz, correct me if I'm wrong, but based... it sounds like you have inheritance of
18 coal and inheritance of gas, through two different... and so you would inherit the royalties or
19 whatever, the interest through the gas estate. Dismissing it, I think, means the royalties no longer
20 go into escrow in this case, and go directly to the estate or ultimately to you. Do I have that right,
21 Mr. Swartz? The dismissal here would operate...

22 **Mark Swartz**: Help me out. What tract are you in? Before we make assumptions.

23 **Paul Kugelman**: That's true.

24 **Warren Long**: Both the A1A and the 123A...

25 **Rick Cooper**: 3A.

26 **Warren Long**: And the 123 I have...

27 **Rick Cooper**: 3A, Mark.

28 **Mark Swartz**: 3A, Okay.

29 **Warren Long**: Because I'm listed as both of them. This one here... this right here is one that
30 went with my grandmother... I mean my grandpa... Bascom.

31 **Mark Swartz**: O kay, so you are saying you in... 3A, right?

1 **Warren Long**: Right.

2 **Mark Swartz**: And you are under whom, here?

3 **Warren Long**: Let me show you right here.

4 **Paul Kugelman**: Mr. Long, if you just focus on the gas part, that will help him ...first...

5 **Warren Long**: Okay. That's what I want to do. Let me get down here. I've got more pages more

6 [inaudible] Right here is the one that's under 3B – 146 acres.

7 **Mark Swartz**: Hold on let me find...

8 **Warren Long**: That's on Exhibit B-3.

9 **Mark Swartz**: Okay, so Tract 3A and...

10 **Warren Long**: 3B. And so that's...

11 **Mark Swartz**: And you are under Bascom and Keen heirs?

12 **Warren Long**: Yeah. My...well...

13 **Mark Swartz**: Well that's not the one we pooled. That's the gas. And I guess so my short

14 answer is...and I think you are telling us that you understand this...

15 **Warren Long**: I understand that part.

16 **Mark Swartz**: that dismissing you to the extent that you might have a coal claim, but we are

17 pooling you because you have an oil and gas claim. So you're still in the unit...

18 **Warren Long**: Alright. I just want to be sure of that.

19 **Mark Swartz**: I guess I got the impression, as I listened to you, that you knew that. But...you

20 were here to confirm that you are not disappearing from the unit. You are still staying in it as a

21 gas and oil claimant to participate in coalbed methane royalties and the answer is: you are being

22 pooled on the B-3 and yes, you are.

23 **Warren Long**: Well, I... when I first read this...the more I read this...the reason I went to the

24 [inaudible] is I thought I had been trying to get basically wiped out completely as if I was dead

25 and gone from both sections of this. That's what I had...

26 **Mark Swartz**: No these are the people that are being pooled, okay?

27 **Warren Long**: Okay.

28 **Mark Swartz**: Right here where it says 'List of Respondents to be Pooled'...

1 **Warren Long**: Okay.

2 **Mark Swartz**: So, you know, B-3 you are under the Bascom Keen Heirs, devisees, successors
3 and [inaudible]. That interest is being pooled, going forward, and your claim... and if this
4 tract...if there are coal owners in this tract 3B that are being dismissed and their being
5 dismissed... that just means that they are not... as a coal owner, you pay this oil and gas....And
6 this is where we are under... that's B-2.

7 **Warren Long**: That's the dismissal.

8 **Mark Swartz**: That's the dismissal under the same tract.

9 **Warren Long**: Right. Well anyway, it says that I'm dismissed from the coal [inaudible] but not
10 the gas, right?

11 **Mark Swartz**: Correct.

12 **Warren Long**: Alright! I just wanted ...

13 **Mark Swartz**: I thought that's what you wanted, but I wanted to make sure...

14 **Warren Long**: It was too foggy. I read this stuff and it was just foggy as... more than fog...
15 going across the mountain at Elk Garden...so... I just wanna come in here to be sure that...
16 exactly what was going on.

17 **Mark Swartz**: Okay.

18 **Warren Long**: I mean that was my intention. I felt like I was getting hoodwinked.

19 **Mark Swartz**: If you're family owns oil and gas, we have either leased them, or they are being
20 pooled. That's the short answer.

21 **Warren Long**: Okay.

22 **Mark Swartz**: At the end of the day today, if the Board approves this re-pooling, that's the short
23 answer. If you have an oil and gas claim, and a coal bed methane claim, you are still in the hunt.

24 **Warren Long**: That was my question. Because I just felt like I was getting... I went through all
25 the different documents that had me listed, and the more I read, and the more I got counseled by
26 other people, the more confused I got.

27 **Bill Harris**: Well when you saw 'dismissal' you thought, oh I'm out of everything.

28 **Warren Long**: Yes.

29 **Bill Harris**: But it's just the coal part of it, not the oil and gas.

1 **Warren Long**: I understand that part...

2 **Mark Swartz**: I think we all agree. Well our title shows that you have the Keen Heirs... Arnold
3 Keen Heirs, have a surface oil and gas interest in an 81 acre tract. So I mean our title work
4 confirms what I have been talking about...

5 **Warren Long**: Alright. That's what was my concern.

6 **Mark Swartz**: Okay, oh no, you don't have to get up this second.

7 **Warren Long**: I just came up from Georgia to make sure I...got this right.

8 **Mark Swartz**: And the sun was shining and it was a nice drive.

9 **Warren Long**: It is. Especially in my Jag.

10 **Mark Swartz**: Do we have the deed?

11 **Anita Duty**: Yes, you should have the deed.

12 **Mark Swartz**: Okay, give me one minute. We have a severance deed.

13 **Paul Kugelman**: Mr. Swartz, would you have any objection to me coming and looking over
14 your shoulder?

15 **Mark Swartz**: Go ahead. This deed appears to be for...all the coal in, upon or underlying a
16 certain tract of land and the timber and privileges, as herein after specified as pertinent to this
17 tract of land. It's a coal severance deed...from the seventh day of February, 1884. And that's the
18 severance deed in that chain that...to the coal severance deed.

19 **Bill Harris**: So, in plain language now, that means that his clients don't own the coal because
20 that's been severed?

21 **Mark Swartz**: Well he's telling us that they own the oil, gas and coal. And I'm saying the coal
22 was severed in February of 1884 from the oil and gas.

23 **Bill Harris**: Now does that....

24 **Mark Swartz**: And our title shows them in the coal chain.

25 **Paul Kugelman**: So in the chain of title, with respect to the severed interests, the only part of the
26 severed interest that the Jacksons and Ms. Hyatt, based on your company's research... or your
27 client's research, is coal ownership and that's it.

28 **Mark Swartz**: Correct. So unless they were to show a subsequent deed work that the oil and
29 gas...or a piece of the oil and gas in that 10 acre tract came back into them. You know what
30 we've got...

1 **Paul Kugelman**: Or somehow got it another way.

2 **Mark Swartz**: The coal was severed so they would have to show us a re-acquisition back into
3 their chain of some interest in the oil and gas and I guess that's the reason for my inquiries, you
4 know... or I guess Mr. Kugelman's inquiry...what evidence do you have to support your claim?
5 Because the coal claim is not going to get it, probably. So whatever evidence you've got to
6 support a claim to an interest for oil and gas (coal bed methane) over that 10 acre tract. And
7 that's the pending question, I guess.

8 **Donnie Ratliff**: Do you understand that, Mr. Christian?

9 **Zane Dale Christian**: I think they should have...seeing that the gas company should have to
10 furnish us with some proof that were this gas and oil was sold by the heirs. They must have some
11 documents. He says they've searched it.

12 **Mark Swartz**: They never had it. That's what I'm saying. They are the coal chain.

13 **Zane Dale Christian**: I mean you can't just go...

14 **Donnie Ratliff**: He's got a deed dating back to 1884...that says you only own the coal.

15 **Zane Dale Christian**: Well I think I... we're entitled to the document that they claim that the
16 Jacksons tract of land...or the oil and gas was sold.

17 **Donnie Ratliff**: The deed reflects they never owned it.

18 **Mark Swartz**: It's a simple severance.

19 **Zane Dale Christian**: I think that before you all make a ruling, that they should have to furnish
20 that. I mean they are the ones who...

21 **Mark Swartz**: Well we're showing... in our work, that we have tendered here today, the three
22 oil and gas owners over this tract. I mean we've brought the oil and gas title forward and we
23 don't see it in them. So, you know, if you look at the Tract IDs for these tracts, the
24 Commonwealth is the oil and gas owner...there are two other people, but not this family.

25 **Donnie Ratliff**: You are never going to explain that to him...could we continue this to next
26 month. He's not going to understand.

27 **Zane Dale Christian**: They are the ones who are claiming. It's my contingency... our
28 contingency that they should have to furnish us with the document.

29 **Bill Harris**: Mr. Christian, I'm not sure... normally if you, as a person, come to the Board and
30 say that you own something, the burden of proof is on you all to show that you own that. Not to
31 the oil and gas company to say that you don't own.

1 **Zane Dale Christian**: I would...sir, I would beg to differ. They are coming in here, saying that
2 they own something with no proof!

3 **Paul Kugelman**: Well actually, sir, they just showed us the deed.

4 **Zane Dale Christian**: Well, if they own it, let them prove it. We have...why do they put them in
5 as a respondent in the first place?

6 **Paul Kugelman**: Because the statue required it at the time.

7 **Zane Dale Christian**: Now, then they want to dismiss.

8 **Donnie Ratliff**: Can I have a motion that we continue this until next month?

9 **Donnie Rife**: Motion made to table this until next month.

10 **Donnie Ratliff**: Second?

11 **Bill Harris**: I will second.

12 **Donnie Ratliff**: All in favor.. ‘Aye’.

13 **Board**: Aye.

14 **Donnie Rife**: Mr. Zane?

15 **Zane Dale Christian**: Yes?

16 **Donnie Rife**: We’re going to table this until next month, until we get a little better idea of what’s
17 going on with it. Is that Okay with you?

18 **Zane Dale Christian**: Yes, sir.

19 **Donnie Rife**: Okay.

20 **Mark Swartz**: Well, with all due respect, he needs to have an explanation with what his claim is.

21 **Donnie Ratliff**: Right.

22 **Mark Swartz**: I mean, you know, I’m prepared to share some information with him, but you
23 know, we don’t need to do this a second time.

24 **Bill Harris**: But you are willing to share the information you’ve made your decision on?

25 **Mark Swartz**: I am not giving them title reports that we spent thousands of dollars on. I will
26 give him deeds...give him a start, or fair warning as to what he needs to be looking at and
27 thinking about. And I’ll give him...I’ll email him if he gives me his email address before he
28 leaves... I’ll email him the severance deed we just looked at. And I will look at...we will look at

1 the oil and gas side... actually I have that information now. They sent me stuff while you asked
2 questions, so I can't answer them, but... you know I will share some of that information with
3 him. But he needs to have an explanation as to why there is a reason that coal owners have a
4 coalbed methane claim, at this junction.

5 **Donnie Ratliff**: Okay, Do you understand that, Mr. Christian?

6 **Donnie Rife**: Did you understand what he just said, Mr. Christian?

7 **Zane Dale Christian**: I...he...as I understood, he's going to give an explanation as to why the
8 coal owners have a conflict?

9 **Mark Swartz**: No...

10 **Donnie Ratliff**: No, that's not what he said. He's going to furnish you with a copy of the deed,
11 that he's looking at now, so that you can do your due diligence.

12 **Zane Dale Christian**: Well, gas company has come along and said 'Well, we own it.' And then
13 put the proof on us, and then they escape...

14 **Mark Swartz**: We are not saying we own it! We have identified the other people that own the
15 gas and oil that are not us.

16 **Donnie Ratliff**: That's right. That's not what he said.

17 **Zane Dale Christian**: But...my people own the 10 acres in the middle of what he's... what they
18 are wanting to develop... say they own it. And that 10 acres...they never explained where and
19 why now, after all this time, now they're gonna turn around and say 'We own it...or there's a
20 conflict.' Now they are reversing themselves.

21 **Bruce Prather**: You need a chain of title, showing where their interest came from in the oil and
22 gas. In other words, he says they don't have any, because he's done an abstract on your title. You
23 need something to show the Board...

24 **Zane Dale Christian**: I don't have an abstract!

25 **Bruce Prather**: Well, what I mean is, what I'm saying is in order to protect your customers... or
26 your clients...you need something to say exactly what their interest is and how they got it. He
27 says you don't.

28 **Zane Dale Christian**: Alright. And you give me how long? Will you give me an extension of
29 time?

30 **Donnie Ratliff**: The next meeting is...

31 **Rick Cooper**: April 21st.

1 **Donnie Ratliff**: Let's adjourn to lunch. It's five after 12. Let's start back at 1:00.

2 -BREAK-

3 **Juanita Sneeuwajagt**: Excuse me, Mr. Swartz. Wait one moment.

4 **Donnie Ratliff**: Juanita wants to say one thing.

5 **Juanita Sneeuwajagt**: I do want to say something and I think the technician just walked out the
6 door. And where's Mr. Cooper?

7 **Bill Harris**: He's right there.

8 **Juanita Sneeuwajagt**: No, Mr. Cooper. Rick Cooper. I don't see him. Oh, Mr. Cooper! I'm
9 waiting on you to come back in.

10 **Rick Cooper**: Speak, ma'am.

11 **Juanita Sneeuwajagt**: My name is Juanita Sneeuwajagt and I have been attending the Gas and
12 Oil Board Meetings... I guess about eight years, or so now. And I've had trouble hearing and as
13 time goes on, my hearing has diminished more. (That's just a nice way of saying I'm getting
14 old.) But, anyway, I asked for a hearing device and I even got hearing aids and they still were not
15 sufficient for this room because this room is not... the acoustics are not great at all in this room.
16 So the guys worked and worked and Mr. Cooper and the technicians and I don't know who else
17 was involved with this, but my greatest appreciation and thanks to D.G.O. and to D.M.M.E.
18 Anybody else involved in getting this developed, Mr. Cooper?

19 **Rick Cooper**: I would think the people that you need to thank are Sarah Gilmer, Sally Ketron
20 and Blair Linford. They have done all the research, and a lot of research and we've done a lot of
21 comparative costs, we've visited two or three facilities and this is what we've come up with so
22 you are looking at the three here that you need to give credit to.

23 **Juanita Sneeuwajagt**: Well for the first time in all this time... I could see Mr. Swartz's mouth
24 moving, but that's all I could see. So...

25 **Mark Swartz**: This isn't necessarily a good thing for you, then... [laughter]

26 **Juanita Sneeuwajagt**: It depends! It depends. You get pretty windy sometimes, but... anyways.
27 I want to thank you for this effort and for the first time in a long time, I am being able to hear
28 every word that is said and it's greatly appreciated.

29 **Donnie Ratliff**: Thank you, Juanita.

30 **Juanita Sneeuwajagt**: Thank you, I am grateful.

31 **Board**: Thank you.

Item Number 14

Donnie Ratliff: If we're ready, we'll call Docket Item Number 14. A petition from CNX Gas LLC., for re-pooling of G-39 of docket number VGOB 06-0221-1577-01. All parties interested, please come forward.

Mark Swartz: Mark Swartz and Anita Duty.

Donnie Ratliff: You may begin.

Mark Swartz: Thank you. Actually, I think this is just a... is this the one with the elections?

Anita Duty: It is.

Mark Swartz: This actually is not a complete re-pooling. It's a petition to provide one party with an election option. If you go to the Notice of Hearing...LBR Holdings, LLC...we're asking that they be given the opportunity to make an election with regard to G39B. And I'll let Anita explain to you what happened here, but I think a lease that they were leased under, terminated. Am I right, Anita?

Anita Duty: Yes.

Mark Swartz: Why don't you tell the Board though, so that they have it from somebody under oath.

Anita Duty: Okay, we had originally had a farm-out agreement with Geomet. And Geomet had originally had the lease...or EQT has the lease...EQT farmed it out to Geomet. And then Geomet and CNX had a farm-out agreement. Geomet did not meet their drilling obligations, therefore they lost the lease. So, which made our agreement void. So then we had to go back to EQT and work out an agreement with them. We were never able to on this particular well so.... What we're doing here, is they already participate in G39 and we're just giving them the opportunity to participate in G39B.

Mark Swartz: The second well.

Anita Duty: The second well.

Mark Swartz: So that's what happened and all we require is ... in order from the Board...in this unit giving LBR Holdings, LLC., an opportunity to exercise...in a participation option or election rights, with regard to G39B.

Donnie Ratliff: Okay.

Bruce Prather: Is G39 a well to be drilled on this property, or has it been drilled?

1 **Mark Swartz**: I think it's probably been drilled. Yes? No? I'll tell ya in a minute here. Well, I
2 can't tell from what I have.

3 **Anita Duty**: The symbols are the same. Propose is a different symbol, so I'm assuming it is
4 drilled.

5 **Mark Swartz**: It looks like it's drilled.

6 **Bruce Prather**: Okay.

7 **Mark Swartz**: It's .01 acres.

8 **Donnie Ratliff**: Anything else, Mr. Swartz?

9 **Mark Swartz**: No.

10 **Donnie Ratliff**: Questions from the Board? Staff good?

11 **Rick Cooper**: Yes, and I can assure you both wells are drilled.

12 **Donnie Ratliff**: Okay. We operate on a motion, gentlemen.

13 **Donnie Rife**: Motion made for approval, Mr. Chairman.

14 **Bill Harris**: I'll second.

15 **Donnie Ratliff**: All those in favor?

16 **Board**: Aye.

17 **Donnie Ratliff**: Those opposed? [None] Passes.

18
19 **Item Numbers 15, 16 & 17**

20 **Donnie Ratliff**: Let's go to Item 15 on the docket. On the Board's own motion, CNX Gas
21 Company, LLC., will approach the Board to revise testimony for (1) disbursement of escrowed
22 funds hereto deposited in the Board's Escrow Agent, attributable to Tracts 3A, 3B and 3C as
23 depicted upon the annexed Table 1; and number 2, authorized to begin paying royalties directly
24 to the royalty split between Tazewell Coal and Gas Company and Frances Ann McGlothlin,
25 Euva Lane Lyons, Bobby Curtis McGlothlin, Glenn Ruth Couch, Sandra Street. Concerns Unit
26 BF-102. Docket Number VGOB 05-0215-1400-01. All parties interested, please come forward.

27 **Mark Swartz**: Mark Swartz and Anita Duty. I think it might make sense since it's sort of the
28 same folks and issue, if you could call 16 and 17, and do them together.

1 **Donnie Ratliff**: Okay, Item 16 is on the Board's own motion, CNX Gas, LLC., will approach the
2 Board to Revise testimony in disbursement of escrowed funds, hereto deposited in the Boards
3 Escrow Agent, attributable to Tracts 1A and 1B as depicted upon the annexed table and
4 authorization to begin paying royalties directly to the parties to the royalty split between
5 Tazewell Coal and Gas Company, Frances Ann McGlothlin, Euva Dane Lyons, Bobby Curtis
6 McGlothlin, Glenna Ruth Couch, Sandra Street. The Unit is BF-101. Docket Number VGOB 05-
7 1018-1507-01. Item 17 on the Boards own motion, CNX Gas will approach the Board on the
8 testimony of the disbursement of escrowed funds hereto deposited in the Board's Escrow Agent
9 attributable to tracts 1A, 1B, 1D, 1E, 1F, 1G, 1H and 2, as depicted on the annexed table. (2) and
10 authorized in paying royalties directly to the parties involved in the royalty split. This is
11 concerning BG-102. Docket Number VGOB 05-1018-1508-01. All parties interested, please
12 come forward.

13 **Mark Swartz**: Mark Swartz and Anita Duty on those, as well. These three applications for a
14 disbursement...I believe they came on for hearing in December, originally?

15 **Anita Duty**: Yes.

16 **Mark Swartz**: And the disbursements were approved, and then developed subsequent that we
17 needed to... or that the record needed to be supplemented to some extent and then Anita is here
18 to do that.

19 **Donnie Ratliff**: Okay.

20 **Anita Duty**: I guess the whole reason that we needed to come back and update these exhibits is
21 that once we got back to the office, our title department notified us that the heirship had left off
22 one of the original heirs. Somebody that had worked on that heirship prior, had left off a person,
23 thinking there was no issue. But actually, it was an issue and they needed to... that family
24 member needed to come back in, which changed everybody's fractional interest. So, I notified
25 Sarah to let her know that we had... we needed to come back and modify the interest, and it's
26 taken us a little bit of time because it's like six pages of 11x17 of this heirship, so it's really big.
27 We've got it straightened out now, and all we need to do is update that... the fractional interest.
28 It went from 1/160 to 1/240...is the only real change that we've made.

29 **Mark Swartz**: And have you provided that updated information to Mr. Cooper and Sarah?

30 **Anita Duty**: We uploaded it. We didn't make copies because the exhibits were so large.

31 **Mark Swartz**: But you have included the person who was omitted and have made the
32 appropriate changes, and uploaded that to the system, with regard to these three wells.

33 **Anita Duty**: Yes. The people didn't change that were previously approved. Just their fraction.

34 **Donnie Ratliff**: Okay. Staff has that now?

1 **Rick Cooper**: We do have that and you should have that in your petition, also.

2 **Donnie Ratliff**: Okay, anything else?

3 **Mark Swartz**: We should be good to go with the disbursement now, is the point of this.

4 **Anita Duty**: Right. And then we re-generated the tables and changed those interests in there. All
5 that's in the system.

6 **Mark Swartz**: Okay.

7 **Rick Cooper**: Yes. All three of those...all the revisions have been made and we have uploaded
8 those into the petition and we see it as good.

9 **Donnie Ratliff**: Good deal. Anything else, Mr. Swartz?

10 **Mark Swartz**: Then based on the testimony in December and the testimony today and the
11 revised tables, I think you are in the position to give the escrow agent an order that they can
12 comply with and get it right.

13 **Rick Cooper**: And that's what was holding the order up. We wanted everything revised to be
14 correct before we move forward. And that's what the intent is here to do.

15 **Donnie Ratliff**: Okay. Questions from the Board? If not do we have a motion?

16 **Donnie Rife**: Motion made.

17 **Bill Harris**: I'll second that. And that's for those three items, correct?

18 **Donnie Ratliff**: Right.

19 **Bill Harris**: Okay. Yes, I'll second that.

20 **Donnie Ratliff**: All those in favor, say 'Aye.'

21 **Board**: Aye.

22 **Donnie Ratliff**: Those opposed...motion carries.

23

24

Item Number 18

25 **Donnie Ratliff**: Item 18. A petition from CNX Gas, for the disbursement of escrowed funds
26 hereto deposited with the Board's Escrow Agent, attributable to Tract 3B as depicted on the
27 annexed table. Royalties currently being paid under BUC1SGU2, VGOB 08-1118-2367. Docket
28 Number 03-0916-1191-01. All parties interested please come forward.

1 **Mark Swartz**: Mark Swartz and Anita Duty.

2 **Donnie Ratliff**: You may proceed.

3 **Mark Swartz**: Anita would you state your name for us, please?

4 **Anita Duty**: Anita Duty.

5 **Mark Swartz**: Who do you work for?

6 **Anita Duty**: CNX Land, LLC.

7 **Mark Swartz**: And part of your job responsibilities include preparing and pursuing petitions for
8 disbursement from escrow? And that's the reason why we're here on U-35 today, correct?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: And what tract are we concerned with?

11 **Anita Duty**: 3B.

12 **Mark Swartz**: If and when that disbursement is made, all conflicts would be resolved?

13 **Anita Duty**: Yes.

14 **Mark Swartz**: And you have given the Board an Exhibit E that says that?

15 **Anita Duty**: Yes.

16 **Mark Swartz**: So this is...this would close that account.

17 **Anita Duty**: It will.

18 **Mark Swartz**: And the...going back then, to the petition, what is the reason that you are
19 requesting a disbursement?

20 **Anita Duty**: Due to a court order, where Wilderness Tabernacle was awarded 100% of the CBM
21 royalty.

22 **Mark Swartz**: The same situation that we saw earlier with regard to 19. When we were talking
23 about Mr. Glubiak and we called that out of order.

24 **Anita Duty**: Exactly.

25 **Mark Swartz**: That's the same lawsuit?

26 **Anita Duty**: Same.

1 **Mark Swartz**: And have you prepared a table, indicating what the...what interests... who is to
2 receive the payment and how it is to be calculated?

3 **Anita Duty**: Yes.

4 **Mark Swartz**: And who's to... and that's Table 1, correct?

5 **Anita Duty**: Yes.

6 **Mark Swartz**: Who's going to receive this payment?

7 **Anita Duty**: The Trustees of the Wilderness Tabernacle. They will receive 100%.

8 **Mark Swartz**: Okay, so basically, they are going to get 100% of the money in this account and it
9 will be closed.

10 **Anita Duty**: Yes.

11 **Mark Swartz**: Okay. Did you...as is your custom, go back through the deposits in the account
12 (your own records as operator, with regard to deposits into the account) and did you make an
13 effort to compare those with the records that the escrow agents have maintained?

14 **Anita Duty**: Yes.

15 **Mark Swartz**: And miraculously, you were within a penny of this one.

16 **Anita Duty**: Yes.

17 **Mark Swartz**: And you compared the record, starting with revenue back in '05, correct?

18 **Anita Duty**: Yes.

19 **Mark Swartz**: And you ran it through what date?

20 **Anita Duty**: September of 2014.

21 **Mark Swartz**: And this was filed in the... this application was filed when?

22 **Anita Duty**: In January.

23 **Mark Swartz**: In January. Okay, and obviously, once the disbursement for this petition has been
24 approved, you want to be able to pay Wilderness Tabernacle directly in the future?

25 **Anita Duty**: Yes.

26 **Mark Swartz**: That's all I have Mr. Chairman.

27 **Donnie Ratliff**: Questions from the Board? Staff okay?

1 **Rick Cooper**: I do have one question. Who is the check written to, and whom shall it be mailed
2 to?

3 **Anita Duty**: It's written to the Trustees of Wilderness Tabernacle and it's mailed in care of... to
4 Shea Cook's office.

5 **Donnie Ratliff**: I need a motion.

6 **Donnie Rife**: Motion made, Mr. Chairman.

7 **Bill Harris**: I'll second that.

8 **Donnie Ratliff**: All that's in favor, say 'Aye'.

9 **Board**: Aye.

10 **Donnie Ratliff**: All those opposed [No Response]motion carries.

11

12 **Item Number 20**

13 **Donnie Ratliff**: Next item is Item 20. A petition from CNX Gas, LLC., for the disbursement of
14 escrowed funds herein for deposited into the Board's escrow account attributed to Tracts 1B, 4C
15 as depicted on the annexed table. Royalties currently being paid under BUC1SGU2. Docket
16 Number VGOB 98-0421-0648-04. All parties interested, please come forward.

17 **Mark Swartz**: Mark Swartz and Anita Duty.

18 **Donnie Ratliff**: You may proceed.

19 **Mark Swartz**: Anita, state your name for us again.

20 **Anita Duty**: Anita Duty.

21 **Mark Swartz**: Who do you work for?

22 **Anita Duty**: CNX Land, LLC.

23 **Mark Swartz**: And do your job responsibilities include preparing petitions for disbursements
24 and then pursuing them to see that the disbursements occur?

25 **Anita Duty**: Yes.

26 **Mark Swartz**: And were you in charge of supervising the preparation of this petition?

27 **Anita Duty**: Yes.

1 **Mark Swartz**: And again, what is the reason for the request?

2 **Anita Duty**: The same...well we had...hold on... we have the same court order, and in addition
3 to that, we have a royalty agreement.

4 **Mark Swartz**: Okay, so we've got the litigation outcome in Case Number 12-174. That opinion
5 dated November 13, 2014, involving Wilderness Tabernacle as the 100% winner, correct?

6 **Anita Duty**: Yes.

7 **Mark Swartz**: We talked about that earlier. But we also have a split agreement between Hurt-
8 McGuire Land Trust and some other folks, correct?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: So there are two reasons for disbursement, correct?

11 **Anita Duty**: There are.

12 **Mark Swartz**: And this disbursement... these disbursements if made, will not close the escrow
13 account, correct?

14 **Anita Duty**: It will not.

15 **Mark Swartz**: It will need to be maintained.

16 **Anita Duty**: Yes.

17 **Mark Swartz**: And, but at least with regard to the people receiving the disbursements, you are
18 asking for the ability (as the operator) to pay those folks directly?

19 **Anita Duty**: Yes.

20 **Mark Swartz**: And then in addition, we are trying to address a clean-up of coal claimants. And
21 that's with regard to funds that are already in escrow, correct?

22 **Anita Duty**: Yes.

23 **Mark Swartz**: Not a disbursement, but at least a clean-up.

24 **Anita Duty**: Yes.

25 **Mark Swartz**: Okay, and let's go look at the notice here, that we gave... and there's a... I guess
26 it's page 2 of the document (that the Board should have). There is a Notice of Hearing and in the
27 first paragraph, we talk about the folks that would receive a disbursement if it's approved.

28 **Anita Duty**: Yes.

1 **Mark Swartz**: And then we talk about...at the next paragraph, we talk about coal owners who's
2 interest might in-whole or in-part be dismissed, correct?

3 **Anita Duty**: Yes.

4 **Mark Swartz**: And the only one identified is Hurt-McGuire.

5 **Anita Duty**: Yes.

6 **Mark Swartz**: And we have a revised Hurt-McGuire...you know in the last paragraph, we sort
7 of very similar to what we looked at this morning, with regard to pooling. We're telling them, as
8 a coal owner, we are going to appear and ask that their status as a coal claimant, in some
9 respects, might be dismissed and they need to show up if they want to push back against that and
10 they need to give evidence, or some theory to the Board, to require them to not be dismissed.

11 **Anita Duty**: Yes.

12 **Mark Swartz**: And here, we've got a situation where they're actually... because they are the
13 beneficiaries of split agreements, they are going to receive a disbursement, where some tracts
14 where they have split agreements, and they're going to be dismissed as to other interest where
15 they do not have split agreements. Is that correct?

16 **Anita Duty**: Yes, it is.

17 **Mark Swartz**: Clear as mud? Or you got it? Yes? No? Okay, and as a consequence, then, let's
18 look at the disbursements that this request would contemplate and the instructions that need to be
19 given to the escrowing agent. So, we have a Table 1, that you've prepared, outlining the
20 disbursements, correct?

21 **Anita Duty**: Yes.

22 **Mark Swartz**: And just to make the record here, tell us who is to receive the disbursements from
23 Tract 1B and the percentages that the escrowing agent should use when calculating that. And
24 then you see, with regard to Tract 4C, tell us who's going to be paid, where it should be mailed
25 and obviously that's 100% so that's not going to be much of a calculation. But it will be
26 somewhat of a calculation, visa the total, correct?

27 **Anita Duty**: Yes.

28 **Mark Swartz**: Okay, give us the people and the percentages.

29 **Anita Duty**: For Tract 1B, Bessie Lowe, Wanda Hagy, Curtis Stillwell, and Theodore Stillwell,
30 and Elsie Stillwell should each receive 0.0375%. Sylvia Bird, Louis Casey, and Curtis Stillwell
31 should each receive 0.0749% and Hurt-McGuire Land Trust should receive 0.4122%.

32 **Mark Swartz**: Okay, and that's with regard to 1B.

1 **Anita Duty**: Yes. For Tract 4C, the Trustees of the Wilderness Tabernacle will receive
2 36.0745% and the check will be made payable to them and will be mailed to Shea Cook's office.

3 **Mark Swartz**: And the percentages that you have just given us...those are the percentages that
4 the escrow agent should apply against the balance at the time the disbursement... the cash
5 balance as at the time the disbursement was made and that will generate the dollar amounts,
6 correct?

7 **Anita Duty**: Yes.

8 **Mark Swartz**: Okay, and then subsequently, we can tell the acreage here. There will be roughly
9 another...still 10 acres and change, in escrow.

10 **Anita Duty**: Yes.

11 **Mark Swartz**: Have you prepared a revised Exhibit E, going forward?

12 **Anita Duty**: Yes.

13 **Mark Swartz**: And is there also escrow...historically, that will need to be resolved if Hurt-
14 McGuire is dismissed as a coal claimant in some of the tracts.

15 **Anita Duty**: There is.

16 **Mark Swartz**: And then you've got an updated Exhibit EE.

17 **Anita Duty**: Yes.

18 **Mark Swartz**: And you've attached your proof of notice, here with your Affidavit of Due
19 Diligence, correct?

20 **Anita Duty**: Yes.

21 **Mark Swartz**: I think that's all I have, Mr. Chairman.

22 **Donnie Ratliff**: Questions from the Board? [None] Staff?

23 **Rick Cooper**: None.

24 **Donnie Ratliff**: We operate on a motion.

25 **Donnie Rife**: Motion made, Mr. Chairman.

26 **Donnie Ratliff**: Motion second?

27 **Bill Harris**: I'll second.

28 **Donnie Ratliff**: All those in favor?

1 **Board**: Aye.

2 **Donnie Ratliff**: Those opposed? [None] Motion carries.

3

4 **Item Number 21**

5 **Donnie Ratliff**: 21 next?

6 **Rick Cooper**: Yes.

7 **Bill Harris**: Was that a question?

8 **Donnie Ratliff**: Yes. Item Number 21. A petition from CNX Gas Company, for disbursement of
9 escrowed funds thereto deposited in the Board's escrow agent, attributable to Tract F as depicted
10 on the annexed table and 2, authorization to be paid royalties directly to the parties of the
11 prevailing plaintiffs, Patricia Steel, Brenda Taylor, Hubert Lawson, Brian Lawson, Rita Griffith,
12 Samuel Lawson, Leslie Robin Lawson. Docket Number VGOB 02-0820-1057-02. All parties
13 wishing to speak, please come forward.

14 **Mark Swartz**: Mark Swartz and Anita Duty.

15 **Anita Duty**: You may proceed.

16 **Mark Swartz**: You need to state your name for us, please.

17 **Anita Duty**: Anita Duty.

18 **Mark Swartz**: Who do you work for?

19 **Anita Duty**: CNX Land, LLC.

20 **Mark Swartz**: And do your duties there include preparing petitions for disbursement and then
21 following up on them to try and make them happen?

22 **Anita Duty**: Yes.

23 **Mark Swartz**: And we're here today to attempt to obtain a disbursement from the escrow
24 account for FF35?

25 **Anita Duty**: Yes.

26 **Mark Swartz**: And it pertains only to Tract 2F?

27 **Anita Duty**: Yes.

1 **Mark Swartz**: And if the disbursement is made, it will not zero out the escrow account? It will
2 need to stay in place?

3 **Anita Duty**: Correct.

4 **Mark Swartz**: And what is the reason for this escrow request?

5 **Anita Duty**: We have received a court order where the plaintiffs have been awarded 100% of the
6 CBM.

7 **Mark Swartz**: And you've seen that order and have held it in your hand, correct?

8 **Anita Duty**: Yes.

9 **Mark Swartz**: Have you prepared a Table 1 to...that the escrow agent or that the Board can use
10 to draft their order and the escrow agent can use to make the disbursement?

11 **Anita Duty**: Yes.

12 **Mark Swartz**: Okay, and go ahead and tell us who would receive the payments and the
13 percentages the escrow agent should use when making them.

14 **Anita Duty**: Tract 2F. Patricia Steel, Brenda Taylor, Hubert Lawson, Brian Lawson, Rita
15 Griffith, Samuel Lawson, and Lisa Lawson will each receive 5.2725%.

16 **Mark Swartz**: Of the balance on escrow...in the escrow account at the time the disbursement is
17 made.

18 **Anita Duty**: Yes.

19 **Mark Swartz**: And have you prepared a revised Exhibit EE?

20 **Anita Duty**: Yes.

21 **Mark Swartz**: And a revised Exhibit E?

22 **Anita Duty**: Yes.

23 **Mark Swartz**: And this is another unit where we have...where the Exhibit E sets forth the list of
24 owners that would be in escrow, not including the coal owners...that are not included? Or what
25 is going on here?

26 **Anita Duty**: That's the escrow remaining after we dismissed the coal owners.

27 **Mark Swartz**: Okay, so it's just the escrow remaining?

28 **Anita Duty**: Yes.

1 **Mark Swartz**: And at some point, we're going to have to come back to deal with the past money
2 in escrow? Yes?

3 **Anita Duty**: Yes.

4 **Mark Swartz**: But you are asking that the Board allow you to pay the folks in Tract 2F in the
5 future, directly, right? Putting their money into escrow.

6 **Anita Duty**: Correct.

7 **Mark Swartz**: Did you do a reconciliation with regard to this unit? We did. And that would be
8 Table J.

9 **Anita Duty**: Yes.

10 **Mark Swartz**: And when did that start?

11 **Anita Duty**: December 2003.

12 **Mark Swartz**: And when did it end?

13 **Anita Duty**: Reconciliation stopped at October 2014.

14 **Mark Swartz**: And when you did the math, were you able to account for all of the deposits? All
15 of the checks you issued as having been deposited?

16 **Anita Duty**: Yes.

17 **Mark Swartz**: Okay and there was one disbursement which you took into account?

18 **Anita Duty**: Yes.

19 **Mark Swartz**: And what was the difference when you ran the numbers?

20 **Anita Duty**: There was \$19.66 difference.

21 **Mark Swartz**: I think that's all I have, Mr. Chairman.

22 **Donnie Ratliff**: Questions from the Board? Staff? [None]

23 **Board**: None.

24 **Donnie Ratliff**: Operate on a motion.

25 **Donnie Rife**: Motion made, Mr. Chairman, for approval.

26 **Bill Harris**: I'll second.

27 **Donnie Ratliff**: All those in favor.

1 **Board**: Aye.

2 **Donnie Ratliff**: Opposed? [None] Motion carries.

3
4 **Item Number 22**

5 **Donnie Ratliff**: Item 22. A petition from CNX Gas Company, LLC, for disbursement of
6 escrowed funds hereto deposited in the Board's escrow agent, attributable to Tracts 1D, 1G, 1H
7 and 1L as depicted on the annexed table. And 2, authorization being paid royalties directly to the
8 parties of the prevailing plaintiffs, Patricia Steel, Brenda Taylor, Hubert Lawson, Brian Lawson,
9 Rita Griffith, Samuel Lawson, Lisa Robyn Lawson, Dollie Absher, Doris Dye. Docket Numbers
10 VGOB 02-0618-1033-02. All interested parties please come forward.

11 **Mark Swartz**: Mark Swartz and Anita Duty. This is very similar to the one we just looked at.

12 **Anita Duty**: Yes.

13 **Mark Swartz**: And here we have a petition to disburse from FF34?

14 **Anita Duty**: Yes.

15 **Mark Swartz**: And you are? Your name?

16 **Anita Duty**: Anita Duty.

17 **Mark Swartz**: Who do you work for?

18 **Anita Duty**: CNX Land, LLC.

19 **Mark Swartz**: Did you prepare this petition, or supervise its preparation?

20 **Anita Duty**: Yes.

21 **Mark Swartz**: And the reason for the petition is?

22 **Anita Duty**: A court order awarding 100% of the CBM royalty.

23 **Mark Swartz**: And in addition, we are trying to clean up the coal claims, correct?

24 **Anita Duty**: Yes.

25 **Mark Swartz**: And we actually gave a notice to put the coal owners that we were
26 addressing...let me find that notice here...okay, in the Notice of Hearing we identify Swords
27 Creek, correct?

28 **Anita Duty**: Yes.

1 **Mark Swartz**: And we notified them by certified mail.

2 **Anita Duty**: We did.

3 **Mark Swartz**: And we also provided the warning paragraphs at the end of the notice...if you are
4 arguing that you have an interest and don't want to be dismissed as a respondent, please show
5 up, correct?

6 **Anita Duty**: Yes.

7 **Mark Swartz**: Okay, with regard to this unit, did you prepare a Table 1 for the Board to use in
8 addressing the order and the escrow agent to use in making disbursements?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: And the tracts that are affected are...

11 **Anita Duty**: Tracts 1D, 1G, 1H and 1L.

12 **Mark Swartz**: And after this disbursement, it looks like the escrow account will still have funds
13 in it. And it will need to be maintained. Is that correct?

14 **Anita Duty**: Yes.

15 **Mark Swartz**: Take the tracts one at a time and tell us, on the record, people that should receive
16 the payment, and the percentage that the escrow agent should use to calculate the payment.

17 **Anita Duty**: For Tract 1D, Patricia Steele, Brenda Taylor, Hubert Lawson, Brian Lawson, Rita
18 Griffith, Samuel Lawson and Lisa Lawson should each receive 3.3297% of the escrow account.
19 Tract 1G, Dollie Absher should receive 18.1754% of the escrow account. Doris Dye should
20 receive 44.1905% of the escrow account. Tract 1L, Doris Dye should receive an additional
21 0.2109% of the escrow account.

22 **Mark Swartz**: And you've give us once again, an Exhibit E, which talks about the owners in
23 escrow after the coal owners are dismissed that were previously identified, correct?

24 **Anita Duty**: Yes.

25 **Mark Swartz**: And then you've got another section that addresses owners that have money in
26 escrow, but that are subject to split agreements, which is an entirely different issue.

27 **Anita Duty**: Correct.

28 **Mark Swartz**: Okay.

29 **Anita Duty**: We just don't have W-9s.

1 **Mark Swartz**: Right. And you've provided us with that updated Exhibit E and you've also given
2 us an Exhibit EE, with regard to all the split agreements that (at least at the moment), you are
3 aware of.

4 **Anita Duty**: Yes.

5 **Mark Swartz**: Did you look at the deposit... I'm sorry...did you look at the royalty checks that
6 were paid by the operator to the escrow agents, and then look at their deposits and compare
7 them?

8 **Anita Duty**: Yes.

9 **Mark Swartz**: And have you reported that work...the Exhibit J?

10 **Anita Duty**: Yes.

11 **Mark Swartz**: And when did you start looking at royalty deposits? What date does this start
12 with?

13 **Anita Duty**: June 25, 2003.

14 **Mark Swartz**: And then when did the...when does this spreadsheet conclude in terms of the
15 comparison?

16 **Anita Duty**: October 2014.

17 **Mark Swartz**: And you ran a total. There was a disbursement that you accounted for, interest
18 and fees... you totaled that and then you compared the balance to your...to the total of the
19 checks that you issued and you came how close?

20 **Anita Duty**: We had a difference of \$71.34.

21 **Mark Swartz**: If the Board approves this application, are you asking for the ability and authority
22 to pay the folks that are receiving disbursements directly, with regard to future royalty?

23 **Anita Duty**: Yes.

24 **Mark Swartz**: And are you also indicating that we are going to have to come back with regards
25 to funds that were escrowed previously, because we're going to have to address that at some
26 other day.

27 **Anita Duty**: Yes.

28 **Mark Swartz**: Except to the extent Table 1 deals with.

29 **Anita Duty**: Yes.

1 **Mark Swartz**: That's all I have, Mr. Chairman.
2 **Donnie Ratliff**: Questions from the Board? [None] Staff?
3 **Rick Cooper**: None.
4 **Donnie Rife**: Motion made for approval, Mr. Chairman.
5 **Bill Harris**: I'll second.
6 **Donnie Ratliff**: All those in favor?
7 **Board**: Aye.
8 **Donnie Ratliff**: Those opposed? Motion carries.

9

10 **Item Number 23**

11 **Donnie Ratliff**: Item 23. A petition from CNX Gas Company, LLC, for the disbursement of
12 escrowed funds, hereto deposited into account attributable to Tracts 5, 5A, 13B, 20 and 21. The
13 persons identified in Table 1, use the percentages set forth in Table 1 and dismissal of the coal
14 owner's claim, as the Notice of Hearing identified in Exhibit B2 are to be pooled by the Board as
15 conflicting claimants. Docket Number is VGOB 91-1119-0161-06. All parties please come
16 forward.

17 **Mark Swartz**: Mark Swartz and Anita Duty.

18 **Donnie Ratliff**: You may proceed.

19 **Mark Swartz**: Anita, your name again.

20 **Anita Duty**: Anita Duty.

21 **Mark Swartz**: Who do you work for?

22 **Anita Duty**: CNX Land, LLC.

23 **Mark Swartz**: And did you participate in or supervise the preparation of this petition?

24 **Anita Duty**: Yes.

25 **Mark Swartz**: And this petition pertains to what unit?

26 **Anita Duty**: BUNE1.

27 **Mark Swartz**: Which is a sealed gob unit, correct?

1 **Anita Duty**: Yes.

2 **Mark Swartz**: And what tracts does it pertain to?

3 **Anita Duty**: Tracts 5, 5A, 13B, 20 and 21.

4 **Mark Swartz**: And I assume, since it's probably a fairly large unit that the escrow account
5 would need to be maintained, even after disbursements made, as requested by this petition?

6 **Anita Duty**: Yes.

7 **Mark Swartz**: Are you asking for the ability to pay these persons directly in the future, though?

8 **Anita Duty**: Yes.

9 **Mark Swartz**: And is this also an instance where we are seeking to clean up the coal side of
10 things?

11 **Anita Duty**: Yes.

12 **Mark Swartz**: And we've notified Torch Oil & Gas with regard to tracts that we've enumerated
13 here, that we're going to have a hearing today, and that if they wanted to, they could appear and
14 argue that as coal owners, they have CBM claims, correct?

15 **Anita Duty**: Yes.

16 **Mark Swartz**: Did you provide that notice to Torch Oil & Gas by certified mail, return receipt
17 requested?

18 **Anita Duty**: Yes.

19 **Mark Swartz**: And you provided that information...the receipts and so forth, to the Board?

20 **Anita Duty**: Yes.

21 **Mark Swartz**: Have you prepared a Table 1, for the Board to use in drafting an order, and the
22 escrow agents to use in making the disbursement?

23 **Anita Duty**: Yes, we have a Table 1...[inaudible]

24 **Mark Swartz**: And does the Table 1 need to be first?

25 **Anita Duty**: Yes.

26 **Mark Swartz**: And that's to clean something up, I assume?

27 **Anita Duty**: We had received a court order, it's maybe been a year by now...and Kimberly
28 Tucker would never send her W-9 in. And so she finally did. And the way this agreement was, it

1 was 7.5%, 92.5% and then after a certain date, then you'll pay 50/50.... I mean 100%. That's the
2 reason for the two tables.

3 **Mark Swartz**: Okay, so you've already calculated the specific amounts with regard to Tract
4 13B, as a result of that?

5 **Anita Duty**: Yes.

6 **Mark Swartz**: And that...in Table 1 then....those two disbursements...those dollar amounts
7 should be made before the Table 2 disbursements are made on a percentage basis.

8 **Anita Duty**: Yes.

9 **Mark Swartz**: With regard to Table 1, who should receive...who should the checks be made
10 payable to? And then state the amount of the check, as opposed to the percentages.

11 **Anita Duty**: For Tract 13B, Torch Oil & Gas Company should receive \$58.68 and Kimberly
12 Tucker should receive \$723.77.

13 **Mark Swartz**: And then after those dollar payments are made, the escrow agent should then be
14 instructed to make disbursements based on the percentages in Table 1, correct?

15 **Anita Duty**: Yes.

16 **Mark Swartz**: Okay, so with regard to that Table 2, take it a tract at a time, and identify the
17 folks who are to receive the disbursement, and the percentage that the escrow agent should use,
18 to make the disbursement...or to calculate the disbursement amount. **Anita Duty**: For Tract 5,
19 Torch Oil & Gas Company should receive 0.0212%, Nick Deskins, Valmy Shannon and Elenore
20 Hagy, should each...nope... back up...Nick Deskins and Valmy Shannon should receive
21 0.0064% each. And Eleanor Hagy should receive 0.0085%. For Tract 5A, Torch Oil & Gas
22 Company should receive 0.025%. Nick Deskins and Valmy Shannon should receive 0.0075%
23 each. Eleanor Hagy should receive 0.01%. For Tract 20, Torch Oil & Gas Company should
24 receive 0.0644%. Nick Deskins and Valmy Shannon should receive 0.0193% each. Eleanor
25 Hagy, 0.0257%. Tract 13B, Kimberly Tucker should receive 0.1576%. Tract 21, Torch Oil &
26 Gas Company should receive 0.0051%. Nick Deskins and Valmy Shannon should receive
27 0.0015% and Eleanor Hagy, 0.0021%.

28 **Paul Kugelman**: Question, Mr. Chairman.

29 **Donnie Ratliff**: Mr. Kugelman.

30 **Paul Kugelman**: I just want to make sure I'm clear on something, and I apologize. The money is
31 being...in this petition, is being disbursed from the escrow account. Is that just based on split
32 agreements? Not that I have a problem with that, I just want to make sure I understand what the
33 Board's authority is for releasing...because I'm a little bit confused...re-pooling and dismissing

1 the coal owners in the prior agenda items, I understood. Here we're not re-pooling. We're
2 disbursing and I want to make sure that this disbursement isn't based on, 'well now we've
3 suddenly decided coal owners don't have an interest,' and now you're asking the Board based on
4 that.

5 **Mark Swartz**: No.

6 **Paul Kugelman**: Okay.

7 **Mark Swartz**: What we're doing is, we're cleaning up the Exhibit E for the money that's still on
8 deposit.

9 **Paul Kugelman**: Okay and...

10 **Mark Swartz**: Resolving the conflicts. But we're not asking to disburse that, because we're
11 going to have to give another notice to the people and say...you know 'we're going to be doing
12 this,'uh, let's look at that exhibit. Let's look at Exhibit E.

13 **Paul Kugelman**: Well, as long as it...I don't want to drag it out. I just want to make sure that
14 we're not...that you're not asking the Board to release money...for the law as it is right now, you
15 know....court order between the parties, or arbitration, or an agreement...

16 **Mark Swartz**: No. We're going to have to deal with that in the future, but it's not today.

17 **Paul Kugelman**: And that's what I wanted to make sure. That we're not doing that today.

18 **Bruce Prather**: Now, when does Kilgore's Law go into effect?

19 **Donnie Rife**: July 1st.

20 **Paul Kugelman**: It's not signed by the governor yet, but it would be July 1st.

21 **Bruce Prather**: Yeah, I think we may be a little bit premature here.

22 **Mark Swartz**: Well, I don't think we need the law.

23 **Bruce Prather**: I'd like to have the benefit of that law behind me, before I start making these
24 kind of decisions.

25 **Donnie Rife**: Yeah, sometimes I think it's probably better to ask for forgiveness than permission,
26 but this time, in this case, I think we need to wait until at least July 1st.

27 **Mark Swartz**: Well, we can't hold these people off of the disbursement.

28 **Paul Kugelman**: Well that's why I want... I'm not trying to muddy the water, here. I was trying
29 to clear it up. To make sure we aren't running afoul.

1 **Donnie Rife**: I think you're right.

2 **Paul Kugelman**: The basis for the petition for the release of the escrow funds, is predicated
3 upon a split agreement between the parties.

4 **Anita Duty**: Tract 13B is for a court order.

5 **Paul Kugelman**: Okay.

6 **Anita Duty**: All the other tracts are from royalty agreements.

7 **Paul Kugelman**: Okay so, you have a court order between the parties. And the disbursement for
8 the rest is for split agreements. That, under 361.22-5, that's fine.

9 **Mark Swartz**: The money coming out of Table 1 and Table 2 is for those reasons. The money
10 that was in escrow, before today is not coming out for any reason. We're going to have to come
11 back and deal with that. Except for these people that have a court order, or a split agreement.

12 **Paul Kugelman**: Now, I think what is throwing a wrinkle into this, is this other part...request for
13 relief with respect to ...

14 **Mark Swartz**: One company – Torch.

15 **Paul Kugelman**: Okay dismissing Torch. What's the basis for...

16 **Mark Swartz**: They are a coal owner, without a gas and oil claim, absent a split agreement.

17 **Paul Kugelman**: What affect... I don't understand what affect that has on us right now...

18 **Mark Swartz**: What we're saying is, we've revised our Exhibit E to reflect the fact that Torch
19 Oil & Gas Company is not in conflict with the gas owners.

20 **Paul Kugelman**: Okay, based on title work that CNX has done.

21 **Mark Swartz**: Correct. We're telling them that we're going to do that.

22 **Mark Swartz**: And we're also, because we've had this discussion today, several times, we're
23 going to have to come back at some point, either before the law passes or after the law passes. It
24 doesn't really matter. It's going to be the same request...and request that the Board take the
25 moneys in escrow that have been accruing since whenever...years ago when this started...and
26 resolve those conflicts, which we are seeking to resolve today and pay that money out
27 appropriately. You might see us in May, you might see us in June, you might see us in July, but
28 that's what this is about.

29 **Anita Duty**: We're not asking for a disbursement for anything that we don't have a court order
30 or an agreement with today.

1 **Paul Kugelman**: Right. I'm still trying...well anyway.

2 **Donnie Rife**: Me personally, I would still rather wait until after July 1st. Just to make everything
3 perfectly clear.

4 **Donnie Ratliff**: What happens July 1st doesn't have anything to do with what we're doing right
5 now.

6 **Donnie Rife**: Well, that's whenever Kilgore's Law goes into effect, isn't it?

7 **Donnie Ratliff**: Yeah, but these are conflicts resolved. These are either split agreements, or court
8 order. None of this, has anything to do with the Kilgore bill.

9 **Paul Kugelman**: Well not that component of it. The other component, where they are trying to
10 clean up Exhibit W, is it?

11 **Anita Duty**: E.

12 **Paul Kugelman**: That sort of gets into it some.

13 **Mark Swartz**: Well you see, Torch is receive...they are named twice here. Just to sort of
14 focus... if you look at the Notice of Hearing, Torch is getting a disbursement...based on split
15 agreements that they have...in the notice. And they are also being dismissed, when they don't
16 have a split agreement. And I guess...and they are being told, if you don't agree with taking this
17 money, and being ... and the conflict being resolved on these tracts, you need to show up today.
18 I guess, you know, we're talking about one oil and gas company who's actually receiving a
19 disbursement based on their split agreements... and with regard to tracts that do not have split
20 agreements, their conflict is being...they are being taken out of conflict for a disbursement at
21 some point in the future. So I guess...

22 **Paul Kugelman**: My concern...Counsel's concern is this...and taking, though, Kilgore's Bill
23 out of the mix. My concern would be that we are setting up a two-step process whereby...and I
24 understand the legal basis. But I think procedurally, it makes it a little bit unwieldy...that okay
25 now we're going to come in and say, 'now we're going to take one of the claimants out, as
26 conflicting claimants,' and then the next month we come back and say, 'ah, there's no conflicting
27 claimants...pay the money out!' And we've done an end-run-around 22.5 by doing that.

28 **Mark Swartz**: Well, these coal claimants...if they're wanting...there would be no money in
29 escrow, if we weren't here in...when was this? In 1991, saying 'we don't know the answer to the
30 coal, oil and gas conflicting claims.' And we didn't know that answer in 1991.

31 **Paul Kugelman**: Oh I understand that.

32 **Mark Swartz**: So we're telling you that in 1991, 'we don't have an answer for you'...you
33 know,' put this money is in escrow until we have an answer.' Now we have an answer! And

1 we're telling you that. I mean, you know, I don't see that if you didn't make a determination in
2 1991, as to who owned it. You just made a determination that it would be prudent to protect
3 people's claims and rights until we had an answer...to escrow this money. And we're here
4 saying, based on the revision of the statute going forward a couple of years ago, with regard
5 where's the presumption...and with regard to Swords Creek, it's no longer reasonable to tie this
6 money up.

7 **Bruce Prather**: Mark, how many grandfathered coal companies are there, that would be in the
8 same situation? That were placed in this escrow account in 1991?

9 **Mark Swartz**: Well there's 24 million dollars. There probably most is...

10 **Bruce Prather**: Well I know ...

11 **Mark Swartz**: Or whatever they told us this morning. Most of it is probably... the coal
12 companies are not going to be able to come forward and say, you know 'we're special.' So I
13 would think that it would apply to most of the money. Wouldn't you, Anita?

14 **Anita Duty**: Yeah. But he's asking...

15 **Bruce Prather**: But I'm asking, how many coal companies...

16 **Mark Swartz**: How many?

17 **Bruce Prather**: Yeah, how many would be involved in this process that started back... would it
18 be all of them?

19 **Mark Swartz**: 10...12...

20 **Bruce Prather**: 10...12? Okay.

21 **Donnie Rife**: Is that an actual number? Or is that just something you just pulled off the top of
22 your head?

23 **Mark Swartz**: It's probably a pretty good estimate. I mean most of the acreage is owned by a
24 few companies.

25 **Anita Duty**: I mean the coal owners are pretty much... you know the oil and gas owners are a
26 different story, but your coal owners are going to be a Buckhorn, a Swords Creek, Hurt-
27 McGuire...I mean those are the... they have large coal tracts.

28 **Donnie Ratliff**: Any other questions? You may proceed.

29 **Mark Swartz**: The next unit is exactly the same thing. It's 25. Swords Creek is going to get a
30 payment. And they are going to be dismissed, to the extent that they don't have split agreements.

1 **Paul Kugelman**: So you are saying 23 and 25 are essentially the same petition?

2 **Mark Swartz**: Well I thought we were on 24, but I guess maybe I'm wrong.

3 **Anita Duty**: We are on 23.

4 **Mark Swartz**: Well 25 is exactly the same as the one we're on right now. Swords Creek Land
5 Partnership, and some other folks are getting a disbursement, and then Swords Creek being...
6 unless they show up with an explanation... being dismissed at the same time. We are trying to
7 clean up the escrow conflict. Unless they had split agreements, or had something special that
8 gave them the right to receive funds they are given...to the extent that they didn't they are not.
9 And I guess I would just as a sort of common-sense argument...this is not a legal argument...if
10 we had a bunch of just plain folks that we were listing (as opposed to a coal company or planned
11 partnership, you know) if we gave these people notice, they had an argument they would be here
12 today. They would have a lawyer. It's not like giving your neighbor notice or someone down the
13 street. You know these people know that they are receiving funds and they know that the escrow
14 is being cleaned up on some other tracts, and they are not here. Which I think is important. They
15 are not just plain folks. It's a coal company that should know better. That has lawyers. That have
16 counsel.

17 **Bruce Prather**: But do we have any legal problems doing this?

18 **Donnie Rife**: We could.

19 **Paul Kugelman**: As I explained earlier, my only concern at this point is that we wind up taking
20 Delegate Kilgore's work out and actually, based on the argument that Mr. Swartz is advancing, it
21 seems to suggest that Mr. Kilgore's Bill was unnecessary.

22 **Mark Swartz**: I told a lot of people that, but they didn't believe me.

23 **Paul Kugelman**: Including the General Assembly.

24 **Mark Swartz**: Right, but it's just ...

25 **Paul Kugelman**: The point I'm trying to make is, my concern Mr. Prather, is that while the
26 intent to clean up Exhibit E is well-founded and well-meaning, it puts the Board in the position
27 of later having to come back and say 'Ha! There's no conflict here. Let's disburse the money,'
28 and we've done an end-run-around the process, as it's designed.

29 **Bruce Prather**: What I'd like to see, is to make sure that we have the legal premise to do this.

30 **Paul Kugelman**: If I understand...now Anita and Mark...what I'm hearing is, you haven't done
31 any additional title work on this, but you are going back to this and saying 'well these are only
32 coal ownerships that were asserted for the conflicts based on the status of the law.'

1 **Mark Swartz**: We've actually looked at the coal deeds.

2 **Paul Kugelman**: So you've looked at the coal deeds and you are saying...

3 **Mark Swartz**: To satisfy ourselves that there aren't a bunch of weird deeds out there that we
4 need to be paying attention to.

5 **Paul Kugelman**: I will say this, but I cannot lay my finger on it, Mr. Prather. That my advice to
6 the Board would be caution on that particular point.

7 **Bruce Prather**: Well that's the way I feel about it.

8 **Mark Swartz**: The other thing, I wish we... I wish Butch was here today, no offense... but this
9 is something that we talked to Butch about and to Rick about. This is a two-trip thing that Paul is
10 talking about. We would be here to resolve a conflict and then we would be back again... but I
11 have represented them and I'm telling you this... there is no way that we are not going to notice
12 Swords Creek again when the money is coming out of escrow. They are going to have another
13 opportunity to come back and say, you know, 'we don't want this money to come out... for this
14 reason.' We're not just going to notice... I hear what you are saying, but we are not going to do
15 that. We are not going to be here, and resolve a conflict and then not notify them down the road,
16 when the money is coming out. They are going to have two opportunities to complain. Today,
17 about a conflict, and then when we are back here... because to tell you to disburse funds, we are
18 going to be saying... you know, we are going to use this Exhibit E and resolve this conflict (and
19 there's going to be other conflicts probably) but they are going to be noticed again, and they are
20 going to have... so it is not a 'let's do a... something today that they are not going to appreciate.'
21 They are going to get noticed that we are going to have a disbursement and they are going to
22 have an opportunity to come back again. I assume because they are not here today, they are not
23 going to have anything to argue about. But they are going to have two shots.

24 **Paul Kugelman**: Well, I think I said this before, notice of an illegal act is notice of an illegal act.
25 It doesn't mean that it's right. And I'm not saying that to be controversial. But my job is to
26 advise the Board. And just because somebody's not here, doesn't mean that the action they are
27 taking may be outside of its authority. Again, I'm risk-averse. My job is to keep the Board
28 properly advised. Not to push them out on the edge of the envelope. It's the Board's decision. I
29 don't know... if anyone else on the Board has questions for counsel, I'd be happy to address
30 them, but I think it understands my position.

31 **Donnie Rife**: I put in a form of a motion for disapproval at this time, Mr. Chairman.

32 **Bruce Prather**: I'll second that.

33 **Donnie Rife**: We have a motion and a second. Any further discussion? All those in favor.

34 **Board**: Aye.

1 **Paul Kugelman**: Well we could sever out that part of it and get the disbursement done.

2 **Donnie Rife**: Yeah. I mean at least...

3 **Paul Kugelman**: Just get the money out. That could be a substitute motion.

4 **Bruce Prather**: Do you want to disapprove it? Or continue it?

5 **Bill Harris**: Well we've already disapproved it.

6 **Donnie Rife**: Well I said 'at this time.'

7 **Donnie Ratliff**: We can do a substitute motion.

8 **Donnie Rife**: Yeah. I said 'at this time...disapproval at this time' because it's going to have to be
9 continued.

10 **Donnie Ratliff**: Well, but what about the individuals? That we're holding their money up.

11 **Donnie Rife**: Well, I got a feeling that they can wait until after July 1st to find out, as far as I'm
12 concerned.

13 **Anita Duty**: They have royalty split agreements.

14 **Donnie Rife**: Ma'am?

15 **Anita Duty**: They have royalty split agreements.

16 **Mark Swartz**: Yeah. There is nothing

17 **Donnie Ratliff**: They already have their agreements in place.

18 **Mark Swartz**: I mean we're trying to pay out \$40,000.00 to these people.

19 **Anita Duty**: One of them has a court order, and the other ones have a royalty agreement.

20 **Paul Kugelman**: What counsel would advise is maybe substituting a motion where cleaning up
21 Exhibit E would be denied, but the granting of the payment would be granted. Or, making the
22 payment would be granted. We're compliant with the court order, and we're getting this money
23 to the folks who are entitled to it, but it still addresses the concern about trying to clean up
24 Exhibit E and doing the end-run-around on the current law.

25 **Donnie Rife**: That way they get their money and we still get to revisit the issue.

26 **Paul Kugelman**: Yes, sir.

27 **Donnie Rife**: Okay. I'll put that in the form of a motion with the amendment.

1 **Donnie Ratliff**: So, we have a substitute motion?

2 **Donnie Rife**: Substitute motion...with the amendment, as presented.

3 **Bill Harris**: Let me make sure I understand what is on the table, then. So we're saying that folks
4 with a split agreement, folks with a court order, we'll go forward with those disbursements?

5 **Donnie Ratliff**: Right.

6 **Bill Harris**: But in the case of coal ... the folks we're dismissing because they are coal
7 companies... we are putting a hold on that part of the approval?

8 **Donnie Ratliff**: Yes, sir.

9 **Bill Harris**: Well, I don't know if... can that be done?

10 **Donnie Rife**: Yes.

11 **Rick Cooper**: Well I guess my question here...if I make sure I understand what you are talking
12 about...you are wanting to process everything, with the exception of Torch. Is that what I'm
13 hearing?

14 **Mark Swartz**: They've got an agreement. They're entitled to money. And in the last unit, they
15 are going to get like \$19,000.00. I mean why would you hold their money up?

16 **Rick Cooper**: I'm just trying to get a clarification on where the discussion is going.

17 **Paul Kugelman**: Where the discussion is going, is that Exhibit E is not going to be cleaned up.
18 Is that right? And that would get the money out. All the money would come out that we are
19 talking about, that's being petitioned for release today. But we are not dismissing any...

20 **Mark Swartz**: Well Exhibit E has to change because we are taking these people that have
21 agreements, or court results, out of Exhibit E. So the Exhibit E is going to change if you make
22 disbursements.

23 **Paul Kugelman**: Okay, my apologies. Right.

24 **Mark Swartz**: So there will be a change. And what you are talking about, is not changing
25 Exhibit E to eliminate Torch as a coal claimant, unless they have a split agreement. That's what
26 you're saying.

27 **Paul Kugelman**: Well put. Yes. Thank you for clarifying.

28 **Bruce Prather**: Is that possible? Would you rather continue it?

29 **Mark Swartz**: Well yeah, you can do that. I guess what I'm trying to come up with...I mean in
30 the last unit, Torch gets like \$19,000.00 in the disbursement, and they get disbursements on the

1 other tracts. Why is this ... I guess I'm just having a... but we can do what you are talking about
2 doing, with regard to this unit, and with regard to 25.

3 **Paul Kugelman**: I understand.

4 **Mark Swartz**: And we need to do that, if that's what we need to do to get the money to these
5 people that have court results and split agreements, we can do that.

6 **Rick Cooper**: So I would request... you know, for clarification... state what you are...as we
7 move forward, what is going to be approved and what is not going to be approved, so we know
8 how to handle it once we leave the meeting here.

9 **Donnie Ratliff**: So the motion should be: we would disburse the money to everyone who has the
10 split agreement or court order. And not change Exhibit E unless there is a split agreement with
11 the coal company.

12 **Mark Swartz**: Or whoever. I mean unless there's a...if their money has come out of escrow,
13 Exhibit E should change. If people on Exhibit E have received funds from the escrow account
14 and are not going to have escrowed funds in the future. So that is always done. And that needs to
15 continue.

16 **Paul Kugelman**: Would it be a fair statement to say that the motion should say 'Payments will
17 proceed and Exhibit B...Exhibit E, excuse me... will only be modified to the extent to reflect the
18 payments made.'

19 **Mark Swartz**: Actually the easiest way to do this would be to grant all the relief that we've
20 requested, except the dismissal. And then we will modify Exhibit E, accordingly.

21 **Paul Kugelman**: Okay.

22 **Donnie Ratliff**: Yes.

23 **Bill Harris**: That's what I was trying to...

24 **Mark Swartz**: That's short and sweet and I think accomplishes what the Board is concerned
25 about.

26 **Bruce Prather**: Yeah, I don't think we can dismiss court orders, under any circumstances.

27 **Paul Kugelman**: Yeah, I wouldn't advise that.

28 **Rick Cooper**: So Mr. Chairman, if I'm clear here...if you are reading this, so you all are
29 agreeing that this is a two-step item. One is for disbursement of escrow Tracts 5, 5A, 13B, 20
30 and 21. And if I'm hearing the Board correctly, you are saying that's okay, but the second
31 disbursement, Number 2, dismissal of coal claimants is what you are saying not to disburse.

1 **Paul Kugelman**: Not to not disburse. Not to grant.

2 **Rick Cooper**: Not to approve.

3 **Paul Kugelman**: Right.

4 **Mark Swartz**: Actually you are on the right track, but the motion is going to say ‘they are
5 granting the petition, but denying the dismissal relief sought.’ And they are instructing us to
6 revise Exhibit E to reflect that. I think that’s...

7 **Rick Cooper**: And would that require a revision of the tables, also?

8 **Mark Swartz**: No.

9 **Rick Cooper**: Okay so...

10 **Mark Swartz**: Just Exhibit E.

11 **Anita Duty**: We will put the coal owner back on Exhibit E.

12 **Rick Cooper**: So you will put the coal owner back on Exhibit E.

13 **Mark Swartz**: Torch will go back on. For the tracts that they don’t have split agreements.

14 **Rick Cooper**: Okay.

15 **Bill Harris**: As a conflicting claimant, right?

16 **Donnie Ratliff**: Okay.

17 **Bruce Prather**: The split agreements and court orders will all be resolved.

18 **Bill Harris**: Right. We are trying to release that money...

19 **Bruce Prather**: The ones that don’t have the split agreement, or the court order, are the ones
20 we’re talking about.

21 **Bill Harris**: I think...we’re all on the same page. I think.

22 **Rick Cooper**: So one other question. Would your notification...not notification...but would any
23 other of your pages, but just E, have to be revised to make this clear?

24 **Anita Duty**: The B-2 will be eliminated, because the purpose of the B-2 was to dismiss the coal
25 owners and that did not have an agreement or court order. And then those... you’ll see those
26 same coal owners go back in on the E. The B-2 will be eliminated. The E will put the coal
27 owners back.

28 **Rick Cooper**: Gotcha.

1 **Bill Harris**: The difference between this particular item and the others that we have approved
2 is....

3 **Mark Swartz**: Is illusory.

4 **Bill Harris**: Well I didn't want to bring that up but...I think it's...well...

5 **Paul Kugelman**: The others are being re-pooled.

6 **Bruce Prather**: The court order resolved most of the others.

7 **Paul Kugelman**: Well the other two... I don't know... the other two were being re-pooled. It's
8 just outrageous.

9 **Bill Harris**: Well I'm going to leave it alone.

10 **Mark Swartz**: Well the reason we tried this... and I want to give you a reason for 'why are we
11 over here doing this...what was the thought process on it?' I am a big fan of the deceased,
12 departed Sam Kenison okay? And one of Sam Kenison's favorite lines for me was 'Get your
13 kids. Get you... We're making one trip.' Okay? So we're here on a disbursement. We have
14 noticed people. We have published. We have your attention. We have a spot on your docket. And
15 we're thinking 'We can resolve an Exhibit E issue. Let's do it.' Just like the issue this morning.
16 We've got property lines. We've got an additional well. But we're also here, we have court time.
17 Let's make one trip. Let's deal with Exhibit E. So the reason that we tacked on the clean-up of
18 Exhibit E to this particular disbursement request (and a couple more) is that we're here. Let's
19 make productive use of the time. Uh, there's nothing sinister...you know we're gonna make a
20 second trip to get the money out. It's okay.

21 **Paul Kugelman**: No...

22 **Mark Swartz**: No, I'm not...I didn't take it personally. It's just the reason that we did this is
23 because, to do anything, we need to get in front of you. And we like to make one trip and do as
24 many things as we can at one...trip. And it's okay but that's why we did this. That's why
25 we're...

26 **Donnie Ratliff**: To get us back on track...let's have a motion to withdraw all previous motions
27 and start from scratch.

28 **Donnie Rife**: Okay, Mr. Chairman. I'll put that in the form of a motion to withdrawal all
29 previous motions.

30 **Donnie Ratliff**: On this item.

31 **Donnie Rife**: Yes.

32 **Bill Harris**: I'll second that.

1 **Donnie Ratliff**: All those in favor...

2 **Board**: Aye.

3 **Donnie Ratliff**: Now, let's do the motion. We're going to grant the disbursements, but not the
4 dismissal of the coal claimant.

5 **Donnie Rife**: Yes, sir. I'll put that in the form of a motion.

6 **Donnie Ratliff**: Okay. Do I have a second?

7 **Bill Harris**: I'll second that.

8 **Donnie Ratliff**: All those in favor?

9 **Board**: Aye.

10 **Donnie Ratliff**: Those opposed? [None] Motion carries.

11

12

Item Number 24

13 **Donnie Ratliff**: Now. Docket Item Number 24. Petition from CNX Gas, for disbursement of
14 escrowed funds heretofore deposited in the Board's Escrow Agent, attributable to tracts 2B, 2D
15 and 3A, to the persons identified in Table 1 and use the percentages set forth in Table 1. And 2,
16 dismissal of the owner's claim, named in the Notice of Hearing. This is Docket Number VGOB
17 07-0619-1941-02. All parties interested, please come forward.

18 **Mark Swartz**: Mark Swartz and Anita Duty.

19 **Anita Duty**: You may proceed.

20 **Mark Swartz**: Anita, you want to state your name for us again?

21 **Anita Duty**: Anita Duty.

22 **Mark Swartz**: And who do you work for?

23 **Anita Duty**: CNX Land, LLC.

24 **Mark Swartz**: And are you in charge of putting together petitions for disbursements and the
25 exhibits?

26 **Anita Duty**: Yes.

27 **Mark Swartz**: Okay. This is a petition for disbursement from AX-127.

1 **Anita Duty**: Yes.

2 **Mark Swartz**: And the reason for the request?

3 **Anita Duty**: A royalty split agreement.

4 **Mark Swartz**: Okay, and in this situation, the royalty split agreement is between Coal Mountain
5 Mining Company and three of the Salyers.

6 **Anita Duty**: Yes.

7 **Mark Swartz**: And in the notice that we sent to Coal Mountain Mining and the Salyers, we said
8 that Coal Mountain and the three Salyers are going to propose to receive a disbursement. And
9 Coal Mountain, with regard to other tracts where you don't have split agreements, we're seeking
10 to clean up Exhibit E and dismiss you as a respondent, correct?

11 **Anita Duty**: Yes.

12 **Mark Swartz**: Essentially, the same thing that we just saw.

13 **Anita Duty**: Yes.

14 **Mark Swartz**: Except different people.

15 **Anita Duty**: Yes.

16 **Mark Swartz**: Okay and I've already indicated that this is a split agreement, not a court case.

17 **Anita Duty**: Correct.

18 **Mark Swartz**: And you've prepared a Table 1.

19 **Anita Duty**: Yes.

20 **Mark Swartz**: And could you read the names of the three tracts for disbursements. Could you
21 read the names of the folks that are to receive the payments and then the percentages that the
22 escrow agent should use to calculate the payments?

23 **Anita Duty**: For Tract 2B, Coal Mountain Mining should receive 19.2569%. David Salyers and
24 Steven Salyers should each receive 14.4427%. Tract 2D, Raymond Salyers should receive
25 11.0514%. Coal Mountain Mining should receive 7.3676%. Tract 3A, Coal Mountain Mining
26 should receive 4.6008%. And Raymond Salyers should receive 6.9012%.

27 **Mark Swartz**: And after those disbursements are made, the escrow account would need to be
28 maintained, correct?

29 **Anita Duty**: Yes.

1 **Mark Swartz**: Because there is old money that we need to deal with at some point in the future.

2 **Anita Duty**: Yes.

3 **Mark Swartz**: Okay, and are you also asking for the ability to pay, according to the split

4 agreements going forward, rather than escrowing funds for the folks that we just identified?

5 **Anita Duty**: Yes.

6 **Mark Swartz**: And if we then look at the exhibits, we have an Exhibit E, which would no longer

7 include any coal owners. It only includes oil and gas owners, correct?

8 **Anita Duty**: Yes.

9 **Mark Swartz**: And we have a split agreement which includes the people that we just talked

10 about...who have split agreements.

11 **Anita Duty**: Yes.

12 **Mark Swartz**: And there should be a B-2 as well....maybe not.

13 **Anita Duty**: Yeah, it's going to be before that.

14 **Mark Swartz**: Okay, but there would be a B-2 dismissing Coal Mountain from three different

15 tracts.

16 **Anita Duty**: Yes.

17 **Mark Swartz**: Okay, which are identified in the petition.

18 **Anita Duty**: Yes.

19 **Mark Swartz**: That's all I have, Mr. Chairman.

20 **Donnie Ratliff**: Questions from the Board? [None] Staff?

21 **Rick Cooper**: None.

22 **Bruce Prather**: Mark, does the split agreement take in the coal company and the surface owner,

23 or royalty owner? I mean does it take in everybody? The split agreement. Is it 50/50?

24 **Mark Swartz**: It takes in the oil and gas people and the coal people.

25 **Bruce Prather**: Yeah, I mean is it between the coal people and the...

26 **Mark Swartz**: Oil and gas people.

27 **Bruce Prather**: Yeah.

1 **Mark Swartz**: Sometimes oil and gas people own the surface or maybe the coal company. But
2 not always. So it...at a minimum, it includes the people who own the coal and the oil and gas.

3 **Bruce Prather**: Yeah, if we have a 50/50, how do we have a conflicting claimant?

4 **Mark Swartz**: Because there are tracts that the split agreements don't apply to.

5 **Bruce Prather**: Well, I understand that. That there's... when you do a split agreement, it's for
6 that well. And it's...

7 **Mark Swartz**: No, no, no, no. It's for people in the unit.

8 **Bruce Prather**: Oh, people in the unit.

9 **Mark Swartz**: Right.

10 **Bruce Prather**: Okay.

11 **Mark Swartz**: No, it was for the well, yeah you are right...you know it would be over. It just
12 takes various people's interest. They reach an agreement amount...so it's not the whole well, or
13 all the production.

14 **Anita Duty**: This particular one, just happens to be 60/40. This one is not a 50/50.

15 **Bruce Prather**: Oh, Okay.

16 **Anita Duty**: Just so...

17 **Bruce Prather**: And it doesn't take in old claimants? The split agreement?

18 **Mark Swartz**: No, if you look at Table 1, the total acreage in escrow is 25 acres, right?

19 **Anita Duty**: Oh, you are asking is that...there are people left?

20 **Mark Swartz**: Right.

21 **Anita Duty**: Yes.

22 **Mark Swartz**: And you see, Table 1, there is 25.3 acres in escrow.

23 **Bruce Prather**: Yeah.

24 **Mark Swartz**: And then when you look at the acres that are being distributed, it's way short of
25 that. There's still quite a bit.

26 **Donnie Ratliff**: Anything else? You ready for a motion?

27 **Donnie Rife**: Motion made for approval, Mr. Chairman.

1 **Bill Harris**: I'll second that. Are we... is...is...

2 **Donnie Ratliff**: We are approving the disbursements in Table 1? And rejecting the dismissal of
3 the coal owner's claim?

4 **Donnie Rife**: Yes.

5 **Donnie Ratliff**: Is that what you're doing? Is that what you're wanting?

6 **Bill Harris**: I'll second that. It's...after the discussion on the last item, I would think going
7 forward....because I can't put words in the Board's mouth, but I would assume that if it's a
8 similar situation, we would want to take a similar approach.

9 **Donnie Ratliff**: All three of these are pretty much the same, aren't they? This one, the previous
10 one, and the next one.

11 **Donnie Rife**: They are the same.

12 **Bill Harris**: So I guess...I'm not trying to tell you how to make a motion, but I guess your
13 motion needs to reflect...so what's the motion, then?

14 **Donnie Rife**: To approve the disbursement and...

15 **Donnie Ratliff**: In Table 1. And reject the dismissal of the coal owner's claim.

16 **Bill Harris**: Yeah, I'll second that.

17 **Donnie Ratliff**: Motion rejected for the dismissal. It's just something that needs to be looked at,
18 at another time. Well, at this motion, we just may want to reject it, okay? Everybody clear? All
19 those in favor...

20 **Board**: Aye.

21 **Donnie Ratliff**: And those opposed? [None] Motion carries.

22 **Rick Cooper**: I would just request, Mr. Chairman, that we need any revised documents sent in.

23

24 **Item Number 25**

25 **Donnie Ratliff**: Okay. Item 25. A petition from CNX Gas, LLC, for disbursement of escrowed
26 funds deposited in Board's escrow agent attributable to Tracts 1D, 1E, 1J, 1L...to the persons
27 identified in Table 1, using the percentages set forth in Table 1. And 2, dismissal of coal owner's
28 claim named in the Notice of Hearing and identified in Exhibit B-2, who were pooled by the
29 Board as conflicting claimants. Docket Number is VGOB 03-0218-1115-02. All interested
30 parties, please come forward.

1 **Mark Swartz**: Mark Swartz and Anita Duty.

2 **Donnie Ratliff**: You may proceed.

3 **Mark Swartz**: Anita, will you state your name for us?

4 **Anita Duty**: Anita Duty.

5 **Mark Swartz**: Who do you work for?

6 **Anita Duty**: CNX Land, LLC.

7 **Mark Swartz**: Part of your responsibility is to prepare petitions to disburse funds from escrow
8 and to pursue those petitions?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: Here, we have a petition for disbursement from BC120.

11 **Anita Duty**: Yes.

12 **Mark Swartz**: Regarding Tracts 1D, 1E, 1J and 1L, correct?

13 **Anita Duty**: Yes.

14 **Mark Swartz**: And then also a dismissal of some coal claimants?

15 **Anita Duty**: Yes.

16 **Mark Swartz**: The factual basis for the disbursement is what?

17 **Anita Duty**: Royalty split agreements.

18 **Mark Swartz**: Is it a 50/50, or something else?

19 **Anita Duty**: It's 50/50.

20 **Mark Swartz**: And the...let's look at the notice. I think it says page 2. In the notice, you
21 identified Swords Creek as we did in an earlier one, as both receiving a disbursement and then
22 being dismissed as a coal claimant as well, correct?

23 **Anita Duty**: Yes.

24 **Mark Swartz**: Have you prepared a Table 1, which discloses the payments which the escrow
25 agent should make, pursuant to the split agreement?

26 **Anita Duty**: Yes.

1 **Mark Swartz**: Would you read the tracts affected and the people to receive the checks and the
2 percentages the escrow agent is to use to calculate the dollar amount to pay to the people?

3 **Anita Duty**: Tract 1D, Swords Creek Land Partnership should receive a total of 1.2356%. Lolita
4 Lockhart, Rita Powell, and Angela Roberts should each receive 0.4119%. For Tract 1E, Swords
5 Creek should receive a total of 11.8019%. Lolita Lockhart, Rita Powell, and Angela Roberts
6 should each receive 1.967%. Virginia Steele should receive 5.9009%. For Tract 1J, Swords
7 Creek and Charlie and Rita Powell should each receive 4.6653%. And for Tract 1L, Swords
8 Creek and Charlie and Rita Powell should each receive 0.3879% of the escrow account.

9 **Mark Swartz**: And are you also asking for the ability as operator, to pay these folks that are
10 receiving these disbursements, future royalties directly to them, rather than escrowing?

11 **Anita Duty**: Yes.

12 **Mark Swartz**: Okay, and have you prepared an Exhibit E, that removes the people that we're
13 disbursing to from the escrow account?

14 **Anita Duty**: Yes.

15 **Mark Swartz**: And would it... would the Exhibit E also remove Swords Creek from tracts in
16 which it had a conflicting claim as a coal owner, but did not have a split agreement?

17 **Anita Duty**: Yes.

18 **Mark Swartz**: Okay, and I assume you probably have a Double E, as well, that you've updated?

19 **Anita Duty**: Yes.

20 **Mark Swartz**: Looks like it. Okay, I think that's all I have, Mr. Chairman.

21 **Donnie Ratliff**: Questions from members of the Board? Staff?

22 **Rick Cooper**: None.

23 **Donnie Ratliff**: Do it the same way?

24 **Bill Harris**: Yes, sir.

25 **Donnie Rife**: Motion for the same way.

26 **Donnie Ratliff**: Okay, the motion would be for disbursement of escrow funds in Table 1, and
27 reject the dismissal of the coal owner's claimants.

28 **Bill Harris**: I'll second that.

29 **Donnie Ratliff**: All those in favor?

1 **Board**: Aye.

2 **Donnie Ratliff**: All those opposed? Very good. Thank you.

3 **Mark Swartz**: Alright. Thank you.

4
5 **Item Number 27**

6 **Donnie Ratliff**: Item Number 27. A petition from Range Resources-Pine Mountain, Inc., for
7 pooling of Well Number 900120. Prater District, Buchanan County. Docket Number VGOB 13-
8 0716-4017-01. All parties interested, please come forward.

9 **Tim Scott**: Tim Scott, Gus Janson, and Aaron Anderson for Range Resources-Pine Mountain,
10 Inc. We need a swearing over here.

11 **Sarah Gilmer**: Mr. Anderson do you swear, or affirm, that your testimony is the truth, the whole
12 truth, and nothing but the truth?

13 **Aaron Anderson**: I do.

14 **Donnie Ratliff**: You may proceed.

15 **Tim Scott**: Thank you. Mr. Anderson, please state your name, by whom you're employed, and
16 your job description, please.

17 **Aaron Anderson**: My name is Aaron Anderson. I'm employed by Range Resources-Pine
18 Mountain, Inc. and I'm a Land Tech.

19 **Tim Scott**: And you are familiar with this application, is that correct?

20 **Aaron Anderson**: That's correct.

21 **Tim Scott**: And you did assist in the preparation of the application. Is that also correct?

22 **Aaron Anderson**: That's correct.

23 **Tim Scott**: How many acres does this unit contain?

24 **Aaron Anderson**: 112.69.

25 **Tim Scott**: And Range does have a significant portion of this unit, under lease. Is that right?

26 **Aaron Anderson**: Yes.

27 **Tim Scott**: Are there any parties respondent, listed on Exhibit B-3 that we are going to dismiss
28 today?

1 **Aaron Anderson**: No.

2 **Tim Scott**: Have you attempted to reach an agreement with those parties listed on Exhibit B-3?

3 **Aaron Anderson**: We have.

4 **Tim Scott**: And as a result of your leasing efforts, what percentage of this unit is under lease
5 presently?

6 **Aaron Anderson**: 99.32%.

7 **Tim Scott**: And we notified all the parties listed on Exhibit B of this hearing. Is that correct?

8 **Aaron Anderson**: That's correct.

9 **Tim Scott**: How was that done?

10 **Aaron Anderson**: *Bluefield Daily Telegraph*. And certified mail.

11 **Tim Scott**: And we provided the proof of mailing/proof of publication for the Board. Is that
12 correct?

13 **Aaron Anderson**: That's correct.

14 **Tim Scott**: Now, Range is authorized to conduct business in the Commonwealth, is that correct?

15 **Aaron Anderson**: That's correct.

16 **Tim Scott**: And there's a blanket bond on file.

17 **Aaron Anderson**: Yes.

18 **Tim Scott**: Now, if you were able to reach an agreement with the parties listed on Exhibit B-3,
19 what else terms would you offer?

20 **Aaron Anderson**: \$30.00 an acre for a 5-year, paid-up lease.

21 **Tim Scott**: And you consider that to be reasonable compensation for a lease in this area?

22 **Aaron Anderson**: I do.

23 **Tim Scott**: Now, we've indicated we've got an excess of 99% of the lease... of the unit under
24 lease. What percentage are you seeking to pool today?

25 **Aaron Anderson**: 0.68.

26 **Tim Scott**: And there is no escrowing required. Is that right?

27 **Aaron Anderson**: That's correct.

1 **Tim Scott**: And you are asking the Board to pool the parties listed on Exhibit B-3?

2 **Aaron Anderson**: That's correct.

3 **Tim Scott**: And also, that Range be named the operator for this unit, is that correct?

4 **Aaron Anderson**: Yes.

5 **Tim Scott**: Now, if the Board grants our application today, and we prepare an order that is sent
6 to the parties respondent, what would be the address used for making any elections?

7 **Aaron Anderson**: P.O. Box 2136, Abingdon, VA, 24212. Attention: Phil Horn, Land Manager.

8 **Tim Scott**: And would that be the address for any communications involving an order entered by
9 the Board?

10 **Aaron Anderson**: It would.

11 **Tim Scott**: That's all I have for Mr. Anderson.

12 **Donnie Ratliff**: Questions from members of the Board? You may proceed, Mr. Scott.

13 **Donnie Rife**: Motion made for approval, Mr. Chairman.

14 **Bill Harris**: We're not...

15 **Donnie Ratliff**: Wait a minute. We're almost there.

16 **Bill Harris**: You are wanting to go home.

17 **Donnie Ratliff**: I know it's late...

18 **Tim Scott**: Mr. Janson, would you please state your name, by whom you're employed and your
19 job description.

20 **Gus Janson**: My name is Gus Janson. I'm employed by Range Resources-Pine Mountain, Inc.,
21 as the Manager of Geology.

22 **Tim Scott**: And you also participated in the preparation of this application, is that right?

23 **Gus Janson**: I did.

24 **Tim Scott**: Are you familiar with the proposed well depth?

25 **Gus Janson**: Yes. The proposed well depth is 4,676 feet.

26 **Tim Scott**: And what are the estimated reserves of this unit?

27 **Gus Janson**: 525,000,000 cubic feet of gas.

1 **Tim Scott**: And I believe you also signed the A.F.E. that was presented as a part of our
2 application. Is that correct?

3 **Gus Janson**: I did. Yes.

4 **Tim Scott**: And you are familiar with the well cost. Is that right?

5 **Gus Janson**: Correct.

6 **Tim Scott**: What's the estimated dry hole cost?

7 **Gus Janson**: \$262,103.00.

8 **Tim Scott**: And the estimated completed well cost?

9 **Gus Janson**: \$551,133.00.

10 **Tim Scott**: And again, you have reviewed the A.F.E. that was submitted with the Board. Is that
11 right?

12 **Gus Janson**: Correct.

13 **Tim Scott**: And you... there's a chart... a line item for supervision. Is that correct?

14 **Gus Janson**: Yes.

15 **Tim Scott**: Is that AFE charge...you think that's a reasonable charge for supervision?

16 **Gus Janson**: Yes, I do.

17 **Tim Scott**: And in the event that the Board grants our application, would you consider this to be
18 protection of correlative rights, prevention of waste and in the best interest of conservation?

19 **Gus Janson**: Yes, I would.

20 **Tim Scott**: That's all I have for Mr. Janson.

21 **Donnie Ratliff**: Questions from members of the Board? Hearing that Mr. Scott, you have
22 anything else to add?

23 **Tim Scott**: That's all I have Mr. Chairman.

24 **Donnie Ratliff**: Staff have anything?

25 **Rick Cooper**: We have none.

26 **Donnie Ratliff**: The Board acts on a motion, guys.

27 **Donnie Rife**: Motion for approval, Mr. Chairman.

1 **Donnie Ratliff**: You are in there now. You are right.

2 **Bill Harris**: Second.

3 **Donnie Ratliff**: I have a motion and a second. All those in favor say 'Aye'.

4 **Board**: Aye.

5 **Donnie Ratliff**: Know likewise that I will abstain for appearance that I would be in prejudice.

6

7 **Item Number 28**

8 **Donnie Ratliff**: Item 28. A petition from Range Resources-Pine Mountain, Inc., for well location
9 exception for Well Number V-537717 in Kenady District, Dickenson County, Docket Number
10 VGOB 15-0217-4060. All those interested in speaking, may come forward.

11 **Tim Scott**: Tim Scott, Gus Janson, and Aaron Anderson for Range Resources-Pine Mountain,
12 Inc.

13 **Donnie Ratliff**: You may proceed.

14 **Tim Scott**: Mr. Chairman, may I ask a question please?

15 **Donnie Ratliff**: Sure.

16 **Tim Scott**: And I am confused about this, so I want somebody to take the scales from my eyes. I
17 know that in the past, that when we had a re-pooling or an application that comes before the
18 Board, that has already been before the Board, we usually attach an -01, an -02, an -03... is it
19 the... are we going to do this now, with well location exceptions and poolings that are on the
20 same unit? Will that result in an -01 for the second filing? Is that the way we're doing it?

21 **Rick Cooper**: Yes.

22 **Tim Scott**: Okay, I'll proceed then. Thanks for clarifying that for me. Okay, Mr. Anderson, state
23 your name again, by whom you are employed, and your job description.

24 **Aaron Anderson**: Aaron Anderson. Employed by Range Resources-Pine Mountain, Inc., and
25 I'm a Land Tech.

26 **Tim Scott**: And you are familiar with this application, is that right?

27 **Aaron Anderson**: That's correct.

28 **Tim Scott**: And we've set out the owners of the minerals on Exhibit B to this application, is that
29 correct?

1 **Aaron Anderson**: That's correct.

2 **Tim Scott**: And you are familiar with that ownership. Is that also correct?

3 **Aaron Anderson**: I am.

4 **Tim Scott**: Who operates the wells from which the well location exception is sought today?

5 **Aaron Anderson**: Range Resources.

6 **Tim Scott**: And notice of this hearing was provided to the parties on Exhibit B, is that correct?

7 **Aaron Anderson**: That's correct.

8 **Tim Scott**: And how is that done?

9 **Aaron Anderson**: Certified mail and the *Bluefield Daily Telegraph*.

10 **Tim Scott**: We didn't publish on this one, Mr. Anderson. I believe it was just...

11 **Aaron Anderson**: Did I speak [inaudible]

12 **Tim Scott**: No, we did it for the pooling application, but not for the well location exception. But

13 we filed our proofs of mailing with the Board. Is that right?

14 **Aaron Anderson**: Yes.

15 **Tim Scott**: Okay, that's all I have for Mr. Anderson.

16 **Donnie Ratliff**: Any questions from members of the Board? [None] You may proceed.

17 **Tim Scott**: Thank you. Mr. Janson, again, your name, by whom you are employed, and your job

18 description, please.

19 **Gus Janson**: My name is Gus Janson, I'm employed by Range Resources-Pine Mountain, Inc.,

20 as the Manager of Geology.

21 **Tim Scott**: And you are familiar with this applications, as well. Is that correct?

22 **Gus Janson**: I am.

23 **Tim Scott**: And would you please explain to the Board, why we are seeking this well location

24 exception today?

25 **Gus Janson**: Yes, I've handed out to the Board an Exhibit H-2. This one is a little bit different

26 than a typical vertical well to a vertical well exception location. You will see on this Exhibit H-2

27 several horizontal laterals that have been drilled in the vicinity of this well. So we are here today

28 to ask for an exception to the state-wide spacing under the 2,500 foot exception rule, to those

1 laterals that come within the 2,500 foot of this proposed vertical well. And those wells,
2 specifically, would be the 530-163 which once completed would be in line formation, which will
3 also be completed in this vertical [inaudible]. And we've also included on our application, the
4 530-150, which is in the lower Huron but our permitted well, we only have completion down
5 through the Berea seam, so we really don't need an exception for the 530-150 and we really
6 could modify this application to remove that one if we needed to.

7 **Tim Scott**: That's what would be my question for the Board. We would...we could do it by
8 order, and revise and remove this well. Or we could submit an amended application. Because as
9 Mr. Janson said, this is a different formation and it actually should not have been listed on the
10 Exhibit A for this particular...for the completion of the same formation. So whatever the
11 pleasure, we'll be glad to do that.

12 **Bruce Prather**: Are the majority of these wells lower Huron?

13 **Gus Janson**: Yes, if you will look on the text on each of them, the majority of them are on the
14 lower Huron, but there are three big lines ...

15 **Bruce Prather**: Big lines... Okay. How deep is this well here? Is it going through the lower
16 Huron? Or is it just through the Berea?

17 **Gus Janson**: As I said, it's only going to go through the Berea.

18 **Bruce Prather**: Okay.

19 **Tim Scott**: And Mr. Janson, please tell Mr. Prater and the Board, what the proposed depth of this
20 well is. And I think that will answer that question.

21 **Gus Janson**: Proposed depth of this well is 4,570 feet. And in the event that we weren't able to
22 drill this well at this location, we would be stranding 112.69 acres of reserves here.

23 **Tim Scott**: What would be the loss of reserves?

24 **Gus Janson**: Loss of reserves would be estimated at 600,000,000 cubic feet of gas.

25 **Tim Scott**: So I guess the next question and... back to the question I asked before...what would
26 be the Board's pleasure on how we...

27 **Donnie Ratliff**: Mr. Cooper.

28 **Rick Cooper**: Yeah. We recommend that you revise and remove that one particular well. Just
29 revise that docket. I mean not the docket, but that exhibit.

30 **Sarah Gilmer**: Amanda can just go in and make the revision in our system.

31 **Tim Scott**: Got it. Okay.

1 **Sarah Gilmer**: As long as she'll do it, maybe by the end of the week.

2 **Tim Scott**: Okay.

3 **Bill Harris**: Again, what well is it that you are talking about removing from the display?

4 **Tim Scott**: It's VH-530150.

5 **Gus Janson**: It's the well directly to the southwest of the proposed well.

6 **Bruce Prather**: Gus, is there also the possibility that the horizontal well you have here, that is
7 going northwest, that really before the horizontal part of the thing is established, you are
8 probably out there 2 or 300 feet from where this location is coming down to where you make
9 your horizontal leg. So you are out there 2 or 300 feet in front of that thing, before you ever get
10 into the formation.

11 **Gus Janson**: Correct on that lower Huron.

12 **Bruce Prather**: Yeah, so really, if you are going to mess with the spacing between wells and
13 things, you gotta take that into consideration.

14 **Gus Janson**: Correct. And we would take that. And if we were proposing that the vertical well
15 also be completed in the lower Huron, it would be appropriate to include the 530-150 in the
16 exception application.

17 **Bruce Prather**: Okay.

18 **Tim Scott**: In your opinion then, Mr. Janson, if the Board grants the application, it would
19 prevent waste, promote conservation, and protect correlative rights.

20 **Gus Janson**: Yes, it would.

21 **Tim Scott**: That's all I have for Mr. Janson.

22 **Donnie Ratliff**: Any questions from the Board? Staff?

23 **Rick Cooper**: No. Understand, again emphasize to get this in by the end of the week, it helps us
24 stay on a timeline.

25 **Tim Scott**: Okay. We will do that, Mr. Cooper.

26 **Donnie Ratliff**: Do I have a motion?

27 **Donnie Rife**: For approval, Mr. Chairman.

28 **Bill Harris**: With the revised...

1 **Donnie Ratliff**: With the revised plat.

2 **Bill Harris**: I'll second.

3 **Donnie Ratliff**: And all those in favor?

4 **Board**: Aye.

5 **Donnie Ratliff**: All those opposed? [None] Very good.

6

7

Item Number 29

8 **Donnie Ratliff**: So, Item 29. A petition from Range Resources-Pine Mountain, Inc., for pooling
9 Well Number V-537717. Kenady District, Dickenson County, Virginia. Docket Number VGOB
10 15-0217-4060-01. All parties interested in this order, please come forward.

11 **Tim Scott**: Tim Scott, Gus Janson, and Aaron Anderson for Range Resources-Pine Mountain,
12 Inc.

13 **Donnie Ratliff**: You may proceed. Thank you.

14 **Tim Scott**: Thank you. Mr. Chairman, Mr. Anderson is with...Range actually obtained a lease a
15 couple of days ago, so this is a revised Exhibit B and B-3 (which my office has already uploaded
16 to the system, so it should be on the system presently). Mr. Anderson, again, your name, by
17 whom you're employed and your job description, please.

18 **Aaron Anderson**: Aaron Anderson and I work for Range Resources-Pine Mountain, Inc., and I
19 am a Land Tech.

20 **Tim Scott**: And you are familiar with this application, is that correct?

21 **Aaron Anderson**: That's correct.

22 **Tim Scott**: And again, how many acres is this unit?

23 **Aaron Anderson**: 112.69.

24 **Tim Scott**: And Range does have a significant portion of this unit under lease. Is that right?

25 **Aaron Anderson**: That is correct.

26 **Tim Scott**: Now, we have one person, in particular that we've obtained a lease from...we're
27 going to dismiss them from this application, is that correct?

28 **Aaron Anderson**: That's correct.

1 **Tim Scott**: And who would that be?

2 **Aaron Anderson**: Anna Ferrara.

3 **Tim Scott**: Okay and the exhibits that have been provided – B and B-3 revised, reflect that she’s
4 now under lease, is that correct?

5 **Aaron Anderson**: That’s correct.

6 **Tim Scott**: Now, as to the remainder of the parties listed on Exhibit B-3, you have tried to obtain
7 leases from those individuals?

8 **Aaron Anderson**: We have.

9 **Tim Scott**: Okay. Based on your leasing efforts, what would be the percentage that Range
10 would have under lease presently?

11 **Aaron Anderson**: 99.3 acres.

12 **Tim Scott**: Okay, and then we provided notice of this hearing, is that correct?

13 **Aaron Anderson**: We did.

14 **Tim Scott**: And that was done by certified mail?

15 **Aaron Anderson**: Yes.

16 **Tim Scott**: And then it was also published in the newspaper. When was that published?

17 **Aaron Anderson**: January 21, 2015.

18 **Tim Scott**: And in what newspaper?

19 **Aaron Anderson**: Bluefield *Daily Telegraph* and the *Dickenson Star*.

20 **Tim Scott**: Great. Any unknowns in this unit?

21 **Aaron Anderson**: No.

22 **Tim Scott**: So... and no conflicts. Is that right?

23 **Aaron Anderson**: That’s correct.

24 **Tim Scott**: So we don’t have an escrow requirement?

25 **Aaron Anderson**: That’s correct.

26 **Tim Scott**: No, we filed our proof of publication and the mailed certification with the Board. Is
27 that right?

1 **Aaron Anderson**: That's correct.

2 **Tim Scott**: And again, Range is authorized to conduct business in the Commonwealth.

3 **Aaron Anderson**: Yes.

4 **Tim Scott**: And a blanket bond is on file. Is that correct?

5 **Aaron Anderson**: That is correct.

6 **Tim Scott**: And if you were to reach an agreement with those parties listed on Exhibit B-3, what
7 would those terms be?

8 **Aaron Anderson**: 25 dollars an acre for a 5-year paid-up lease.

9 **Tim Scott**: And you consider that being fair and reasonable compensation for a lease in this
10 area?

11 **Aaron Anderson**: I do.

12 **Tim Scott**: Now, you indicated what our lease hold ownership is right now, but what would be
13 the percentage that you are seeking to pool?

14 **Aaron Anderson**: 0.62%.

15 **Tim Scott**: Okay, and again, we've said there is no escrow requirement. Is that right?

16 **Aaron Anderson**: That's correct.

17 **Tim Scott**: And you are requesting the Board to pool those parties listed on Exhibit B-3?

18 **Aaron Anderson**: That's correct.

19 **Tim Scott**: And that Range be named the operator of this unit. Is that right?

20 **Aaron Anderson**: Yes.

21 **Tim Scott**: Now, again, if the Board grants our petition today, and we send out an order
22 reflecting the elections, what address should be used for making any elections?

23 **Aaron Anderson**: P.O. Box 2136, Abingdon, VA, 24212. Attention: Phil Horn, Land Manager.

24 **Tim Scott**: And again, would that be the address where all correspondence regarding this unit...

25 **Aaron Anderson**: Yes.

26 **Tim Scott**: Okay, that's all I have for Mr. Anderson.

27 **Donnie Ratliff**: Any questions from the Board? Alright.

1 **Tim Scott**: Mr. Janson, again, your name, by whom you are employed and your job description,
2 please.

3 **Gus Janson**: My name is Gus Janson. I'm employed by Range Resources-Pine Mountain, I'm
4 the Manager of Geology.

5 **Tim Scott**: And you are familiar with the proposed well, are you not?

6 **Gus Janson**: Yes, I am.

7 **Tim Scott**: And it's... what would it be?

8 **Gus Janson**: 4,570 feet.

9 **Tim Scott**: Okay, and again, what are the estimated reserves for this unit?

10 **Gus Janson**: 600,000,000 cubic feet of gas.

11 **Tim Scott**: And you assisted in the preparation of the A.F.E. is that right?

12 **Gus Janson**: I did.

13 **Tim Scott**: And so you are familiar with the well cost?

14 **Gus Janson**: I am.

15 **Tim Scott**: What's the estimated dry hole cost for this well?

16 **Gus Janson**: \$236,568.00.

17 **Tim Scott**: And the completed well cost?

18 **Gus Janson**: \$516,121.00.

19 **Tim Scott**: And again, you signed the AFE that was provided as an exhibit to our application. Is
20 that right?

21 **Gus Janson**: That is correct.

22 **Tim Scott**: So you are familiar with the line items that are set out on there, is that right?

23 **Gus Janson**: I am.

24 **Tim Scott**: Is there an item for supervision?

25 **Gus Janson**: Yes, there is.

26 **Tim Scott**: Do you consider that item to be of reasonable charge?

1 **Gus Janson**: Yes, I do.

2 **Tim Scott**: And in your opinion, if the Board grants our application, would it be in the best
3 interest of conservation, protect correlative rights, and prevent waste?

4 **Gus Janson**: Yes, it would.

5 **Tim Scott**: That's all I have for Mr. Janson.

6 **Donnie Rife**: Questions from the Board? [None] Staff?

7 **Rick Cooper**: We have none.

8 **Donnie Rife**: Motion for approval, Mr. Chairman.

9 **Bill Harris**: Second.

10 **Donnie Ratliff**: We have a second. Any discussion? All those in favor...

11 **Board**: Aye.

12 **Donnie Ratliff**: Those opposed? [None] Issue passes.

13

14 **Item Number 30**

15 **Donnie Ratliff**: Let's go to Item 30. A petition from Range Resources-Pine Mountain, Inc. The
16 pooling of Well Number VC-537047. Hurricane District. Buchanan County, Virginia. Docket
17 Number VGOB 15-0217-4061. All parties interested, please come forward.

18 **Tim Scott**: Mr. Chairman, last...yesterday afternoon, last evening, I spoke with Mr.
19 Street...H.A. Street. And he asked that we continue this matter until April and we agreed. And
20 we will provide letter notification of the parties listed on Exhibit B that this matter has been
21 continued to the 21st of April.

22 **Donnie Ratliff**: Okay. Without exception, we will move that to the May docket.

23 **Tim Scott**: The April docket.

24 **Donnie Ratliff**: April. I just skipped a month.

25 **Tim Scott**: Sorry, Mr. Ratliff.

26 **Donnie Ratliff**: That's alright. Thanks for correcting me.

27

Item Number 31

Donnie Ratliff: Now we have a petition from Range Resources-Pine Mountain. Location exception for Well Number V-530405. Sandlick District. Dickenson County. Docket Number VGOB 15-0317-4063. All parties interested, please come forward.

Tim Scott: Tim Scott, Gus Janson, and Aaron Anderson for Range Resources-Pine Mountain, Inc.

Donnie Ratliff: You may proceed.

Tim Scott: Thank you. Mr. Anderson, one more time, your name, by whom you are employed, and your job description, please.

Aaron Anderson: I'm Aaron Anderson, employed by Range Resources-Pine Mountain, Inc., and I'm a Land Tech.

Tim Scott: And you are familiar with this application, is that correct?

Aaron Anderson: That's correct.

Tim Scott: And you are familiar with the ownership of the minerals that are encompassed by this unit.

Aaron Anderson: I am.

Tim Scott: Are those the owners of the minerals set on Exhibit B?

Aaron Anderson: They are.

Tim Scott: Who operates the wells from which the well location exception is sought today?

Aaron Anderson: Range Resources.

Tim Scott: Okay. Now on this particular unit, Range is both the owner and operator. Is that correct?

Aaron Anderson: That is correct.

Tim Scott: And how was notice of this hearing provided to the parties that are set on Exhibit B?

Aaron Anderson: Certified mail.

Tim Scott: And we provided proof of mailing to the Board. Is that correct?

Aaron Anderson: Yes.

Tim Scott: That's all I have for Mr. Anderson.

1 **Donnie Ratliff**: Questions from members of the Board? Hearing none. You may proceed Mr.
2 Scott.

3 **Tim Scott**: Thank you. Mr. Janson, your name, by whom you are employed, and your job
4 description, please.

5 **Gus Janson**: My name is Gus Janson. I'm employed by Range Resources-Pine Mountain, Inc.,
6 and I'm the Manager of Geology.

7 **Tim Scott**: And you participated in preparing this application. Is that right?

8 **Gus Janson**: I did.

9 **Tim Scott**: And would you please tell the Board why we are seeking a well location exception
10 today?

11 **Gus Janson**: Yes. I have handed out to the Board, Exhibit H-2. On these exhibits, you will see
12 the location of the proposed well, 530-405. It will be the well with the red circle around the green
13 [inaudible] area. This well has been positioned due to the steep terrain and topographic state,
14 which will result in the maximum recovery of the gas resources, with relationship with the
15 existing offset wells. The nearest feasible location with meeting the statewide spacing
16 requirements identified in this exhibit, is located approximately 2,000 feet to the East. In the
17 event that we are unable to drill this well at this location, we would strand approximately 101.18
18 acres of gas reserves.

19 **Tim Scott**: What is the proposed depth of this well?

20 **Gus Janson**: Well depth is proposed at 6,256 feet.

21 **Tim Scott**: And what is the potential loss of reserves if our location exception is not granted?

22 **Gus Janson**: 525,000,000 cubic feet of gas.

23 **Tim Scott**: And then if the Board grants our application, that would prevent waste, protect
24 correlative rights, and promote conservation. Is that correct?

25 **Gus Janson**: That is correct.

26 **Tim Scott**: That is all I have for Mr. Janson.

27 **Donnie Ratliff**: Questions from the Board? Hearing none.

28 **Tim Scott**: That's all I have Mr. Ratliff.

29 **Donnie Ratliff**: The Board acts on a motion.

30 **Donnie Rife**: Motion for approval, Mr. Chairman.

1 **Bill Harris**: I'll second.

2 **Donnie Ratliff**: We have a second. All those in favor say 'Aye'.

3 **Board**: Aye.

4 **Donnie Ratliff**: Those opposed? I'll abstain.

5

6 **Item Number 32**

7 **Donnie Ratliff**: The Board will receive an update from staff. Thank you, Tim. Thank you guys.
8 Aaron, keep this bunch straight, will you?

9 **Aaron Anderson**: That's impossible.

10 **Rick Cooper**: I did want to point out, I hope everyone received Ms. Ketron's... she had put
11 together a process on all the iPads. I hope everyone got to look at that. She put a lot of work into
12 that and it's a pretty good little document. I want to thank her, in front of everyone, for doing
13 that. Again, we'll continue working on the iPads and if we have any problems, just contact Ms.
14 Ketron and she will try to help you in any way she can.

15 **Rick Cooper**: And two things... sit there just a minute, Donnie, I've got a couple of items.

16 **Donnie Rife**: Okay.

17 **Rick Cooper**: Two things that I wanted to point out. I told before, the 21st they have a group
18 coming in here called DigiGirls. It's a spin-off of the STEM Project, if any of you are aware of
19 the Science Technology Engineering and Management Project that Ms. Quillen helped found
20 many years ago. And the Secretary of Technology will be down here so they have reserved the
21 whole end of this building, and there should be several hundred young girls...young ladies here,
22 and they are trying to advance science and technology. So, our next meeting will be at the
23 opposite end of this building, in the Board of Supervisors Board Room in April. And just again,
24 our May meeting has moved forward one week. It would be the Tuesday after Memorial Day.
25 May the 26th. I want to make sure everyone knows that. And in an on-going effort, as the Board
26 has asked us to do, is try to look at some of these old accounts and close them. Ms. Gilmer and
27 Ms. Ketron have put forth a lot of effort and when you look at this, it may not look like much
28 effort, but it takes 3-5 hours to get this 21 cents back, that we are getting ready to ask for. And so
29 there is a lot of work and a lot of transcripts have to be read to get this. And I guess I will ask
30 you how you want to handle this and I'll read these. Does the Board need to vote on these? Do
31 you want me to read these on record? Or I guess I'm looking for a little direction.

32 **Paul Kugelman**: Is this going to be made part of the record?

1 **Rick Cooper**: Yes.

2 **Donnie Ratliff**: I would...we dealt with this...

3 **Rick Cooper**: And generally, I read these on record and you all either approve or do not

4 approve.

5 **Bruce Prather**: These wells have never been drilled?

6 **Donnie Ratliff**: We put a dollar amount that you guys could go ahead... and I don't remember

7 what that was. It was before the holidays that we came up with a dollar amount, that if it was

8 within that range, that you had our blanket permission to make the appropriate changes. But...if

9 we need to do it by motion, we can...

10 **Rick Cooper**: I can actually read these really quick. And I'm not sure...I guess I need to

11 probably try to research that because I am not sure what that dollar amount is.

12 **Donnie Ratliff**: We did put... and I don't remember... maybe \$300.00 or \$400.00. Do you

13 remember Bruce?

14 **Bruce Prather**: I don't recall.

15 **Donnie Ratliff**: But we put a range out there before we did the audit, because they wanted to

16 know if they found items in the audit that they couldn't track down any further, and they were

17 left with this small balance, what could they do with it and we gave them permission just to put it

18 back down into the operating account.

19 **Rick Cooper**: No, this right here would be money, by Board order...some of these have been by

20 Board order to either close the accounts or disburse the funds...maybe some funds that were left

21 over when the account was closed. We need to send these back to the companies. So...

22 **Donnie Ratliff**: Okay, read them off and we will...

23 **Rick Cooper**: So the first one here, which would be (I'm just reading the last four of the docket

24 number) 0456 for Well V-2364. A supplemental order was revised to distribute the money to

25 James Sexton out of escrow account. When EQT located him and paid him, 21 cents remains in

26 the escrow account. But this account should have been closed after the disbursement. And so we

27 are requesting that you approve us to have the bank send 21 cents to Mr. Sexton and close this.

28 **Bruce Prather**: Rick has this well been plugged?

29 **Rick Cooper**: I don't know. I just know that, right off, to be very honest that the supplemental

30 order was to disburse the money to disburse the money in that account to Mr. Sexton and for

31 whatever reason, because of timing, there are a couple of cents left over and it was not closed. So

32 there is 21 cents left over in the account.

1 **Donnie Ratliff**: Okay.

2 **Bill Harris**: So it could be still producing, but they are paying directly to the....

3 **Rick Cooper**: Correct. That is correct.

4 **Donnie Ratliff**: You want one motion on all four? Or you want to just read them all and we will

5 do them in one motion.

6 **Rick Cooper**: I can read these. Okay and the other one is Docket Number 0621 for Well VC-

7 3774. This one, the well was never drilled and it was released, but there is 12 cents that remains

8 in the escrow account. It needs to be closed and refund sent back to EQT. The board order has

9 expired on this one.

10 **Donnie Ratliff**: Okay.

11 **Rick Cooper**: The other one, 0622, Well VC-3813. The board order for this has expired and the

12 well permit has also expired. There is 184.13 in the account, that needs to be closed and the

13 balance refunded back to EQT.

14 **Donnie Ratliff**: Okay.

15 **Rick Cooper**: Docket Number 0623, Well 2691... and again, you can see that these are pretty

16 old. After the September 15, 1998, re-pooling, additional heirs of the A.C. Porter were included.

17 No escrow was required because all the parties in the unit are now locatable. So \$58.38 still

18 remains in the account and needs to be refunded to EQT. Originally, there were some unknowns

19 and unlocatables, but they were found and this money should be sent back to EQT.

20 **Donnie Ratliff**: Okay.

21 **Rick Cooper**: And the last one is 0750, Well VC-4079. The well is expired, the board order has

22 expired. There is 12.13 in the account and it needs to be closed and refunded to EQT.

23 **Donnie Ratliff**: Do I have a motion to do all those at one time, to make the corrections?

24 **Donnie Rife**: Motion made to approve all the requests.

25 **Bill Harris**: I second.

26 **Donnie Ratliff**: Unless anybody's got a discussion.

27 **Bill Harris**: I'll second.

28 **Donnie Ratliff**: We've got a motion and a second. All those in favor?

29 **Board**: Aye.

1 **Donnie Ratliff**: Those opposed? [None] Motion carries.

2

3

Item Number 33

4 **Rick Cooper**: And the only other thing is that the Board has to approve the November and
5 December minutes. Sarah distributed those this week. Did everyone have the chance to look at
6 November and December's Board meeting's minutes? Do we have a motion to approve?

7 **Donnie Rife**: Motion made.

8 **Bill Harris**: And I'll second.

9 **Donnie Ratliff**: And a second. All those in favor?

10 **Board**: Aye.

11 **Donnie Ratliff**: Is that all you've got?

12 **Rick Cooper**: Yes, sir.

13 **Donnie Ratliff**: I would like to adjourn in memory and in honor of M.B. Lambert and let that be
14 in the record, please.

15 **Rick Cooper**: Thank you.